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IN THE MATTER of the Public Inquiries Act,
R.S.A. 1970 C.296 and amendments thereto

AND IN THE MATTER of the Public Inquiry by
A.M. Harradence, Q.C., pursuant to Order in
Council 1295/73 dated August 21, 1973 into
the alleged use of excessive force by
Correctional Officers upon inmates of the
Calgary Correctional Institution during the
evening of July 17, 1973 and any other
similar instances.

PUBLIC INQUIRY

Proceedings taken in the Club Room at the
Jubilee Auditorium, Calgary, Alberta, com-
mencing on the 1st day of October A.D. 1973.

Volume IX

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OCTOBER 29th, 1973

DEPOSITIONS TAKEN AT 10:00 A.M.

THE COMMISSIONER:

Mr. Peacock.

MR. PEACOCK:

We are prepared to proceed with ^{the} fourth out of the five incidents we have investigated. We have heard some indirect evidence on this matter already on the 17th of July when the disturbance occurred in the West Wing. We will proceed today with this incident involving transportation of inmates to the hospital and the events that occurred there and thereafter. The first witness that I intend to call this morning is Mr. Poole unless you have some comments generally prior to us proceeding.

THE COMMISSIONER:

No, I have no comments at this stage, Mr. Peacock. Would you proceed, please.

MR. PEACOCK:

Thank you. Call Gerald Poole, please.

MR. MACDONALD:

Mr. Commissioner.

MR. PEACOCK:

One second, please.

THE COMMISSIONER:

Yes.

MR. MACDONALD:

Before we proceed, I would like to put this on record. I appreciate that we are involved in an inquiry that seems to have very far reaching public interest. It should also be noted that the men in this particular incident who are going to testify this morning are at the present time facing criminal charges as a result of this incident. Now, the thing that

concerns me is that this Inquiry as you have said from time to time, the scope of same is not governed by the same interests and the same rules of evidence that would apply in a court of law. Now, these people will be testifying here without the protection that sometimes a court of law will prefer. Then they will subsequently be testifying in a court of law. I have some very grave doubts as to whether despite the allegations made in these statements that we should be proceeding with this particular incident in the inquiry this morning. I have, however, discussed the matter at some lengths with the prisoners involved. The prisoners indicate that they do wish to proceed with it. They have been advised as to their rights under the protection of the Canada Evidence Act. I would hope, I have no reason to doubt that you as a commissioner cannot extend this power to them solely but I would ask that you take special steps with these people because we are not talking about potential charges. We are talking about actual charges, and would make sure they get the full protection of the act when they give evidence here this morning.

THE COMMISSIONER:

Mr. Macdonald, I think your point is well taken. I must differ on aspect. I cannot extend or withhold the protection of the act. I think you are quite experienced enough to obtain it for them as long as they decline to answer any question on the ground that it may tend to incriminate them. I direct

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them to answer and the moment they give that answer the protection of the act flows. What we will do in view of the precedent that's grown up in the Supreme Court, rather than simply have that refusal with respect to each question, we will take it that from thereon in they are objecting to answer each and every question that's put to them and consequently, the act will flow from thereon in. Is that satisfactory?

MR. MACDONALD: That's satisfactory.

THE COMMISSIONER: Thank you.

MR. PEACOCK: Call Mr. Poole, please.

Mr. Wilkins?

MR. WILKINS: Mr. Commissioner, we have discussed the same matter with the guards with regard to these particular incidents and I would say that our position is the same.

THE COMMISSIONER: I believe that the public interest must govern in this incidence. I am well aware of the limitation and scope of the protection of the Canada Evidence Act but I am satisfied in this case, and there should be no problem.

MR. WILKINS: Very well.

MR. PEACOCK: I wonder if I might just make one statement as well. I gather there are criminal charges pending with respect to more than one incident which we have heard evidence on, or on which evidence will be advanced as the inquiry proceeds. I think we should go

on record to say this. That the commission itself and any of the counsel involved in the commission has nothing to do whatsoever with how these charges are proceeded with or with the direction that those criminal charges will take. I have had word that some criminal charges are being held pending your conclusion of this Inquiry. I think that we have to leave the progress of those charges with the officials who are processing them, whether they be the Federal or the Provincial Government. If charges are being withheld pending the Inquiry, that is a decision that is being made independant of you or of any counsel for the commission. And if those persons in charge wish to withhold proceedings, we are leaving it to them to do so. We are not suggesting that proceedings be withheld nor are we suggesting that they proceed. That is something outside the ambit of our authority.

THE COMMISSIONER: Thank you, Mr. Peacock.

It would be most unfortunate if the authorities are waiting for the outcome of these proceedings to determine whether or not criminal charges are to be laid, and I rather doubt that a responsible officer of the crown would be governed by that motive.

MR. PEACOCK: Thank you.

MR. MACDONALD: If I just might add to that there is one incident which I had occasion to investigate this past weekend involving an inmate by the name of Culling, and I just bring this to your attention,

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MR. MACDONALD:

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Mr. Commissioner.

THE COMMISSIONER: Mr. Macdonald, I wonder perhaps if this witness should be present in view of these remarks that have been made.

MR. PEACOCK: Perhaps the witness would be excused.

Perhaps in view of the fact that we are getting into specifics, I can be a little more specific in my remarks.

THE COMMISSIONER: Alright.

MR. PEACOCK: I have been advised that the charges pending against an inmate who will be testifying with respect to this incident and the fifth incident that we cover, that there are charges apparently pending against him with respect to activities of his at the institution. And he has been advised that those charges are being held in abeyance. Now, I understand he believes they are being held in abeyance until this Inquiry is finished. The position I take as Commission Counsel is simply this. That we are here to investigate. Any decision made in that regard of the laying of charges or proceeding as they see fit has to be left with the other authorities. But I don't think you or I or anyone in this room can compell charges to proceed or can compell them to be delayed. I just want it on record that the commission itself is not taking the position that any criminal charges should be held in abeyance pending this

Inquiry.

THE COMMISSIONER:

Thank you, Mr. Peacock.

MR. MACDONALD:

I would ask that the commission perhaps go a little further than that. With respect to charges that are being held, I would suggest of it throws a bit/a light on the inquiry that we are not perhaps going to get the whole truth. I mean if you have a situation where an inmate is coming to testify before this commission and there is a charge hanging over his head, it leaves the inference that what happens with that charge will be influenced directly by what he says at this commission. And I would suggest a strong statement from yourself, although I agree with Mr. Peacock you can't compell it and it's not in your jurisdiction, but that the holding and running of this Inquiry is, and I would suggest a statement expressing disapproval of such a procedure would be well in order.

THE COMMISSIONER:

Well, of course Mr.

Macdonald you are asking me to take a position that this in fact is what the authorities are doing, and I think I can say this. That I would be surprised and shocked if officers of the crown were simply holding charges in abeyance depending upon the tenor of the testimony of the inmates. I certainly can't accept that and I won't concede for a moment that that's what the officers of the crown have in mind. Now, I can only say that I would be most surprised and most shocked if that indeed was the position

and I doubt it very much. I am quite satisfied that that would not be the position of the officers of the crown.

MR. MACDONALD: Well, I take it Mr. Commissioner, are you suggesting that the reason or the fact that it has happened or both?

THE COMMISSIONER: Well, I think you were the one who was making the suggesting, Mr. Macdonald.

MR. MACDONALD: That's right.

THE COMMISSIONER: And I simply say that I cannot concede for a moment that the officers of the crown are using those tactics. It's certainly not been my experience that officers of the crown would rely on tactics such as those. Those are tactics that may well be prevalent in the great Republic to the south of us but I don't believe they are prevalent here.

MR. MACDONALD: I am saying this, sir. Now, I have suggested a possible interpretation that can be put upon it for the reasons --

THE COMMISSIONER: Well --

MR. MACDONALD: But I think that it is a fact that there are charges being held and I think it's wrong that charges should be held.

THE COMMISSIONER: Well then, I suggest Mr. Macdonald that you make your representations to the proper law enforcement officials.

MR. MACDONALD: I intend to do that, sir.

MR. MEURIN: Sir, if I might just make a comment that might bring us back to basics. Insofar as I believe, the first incident involving Sims was concerned, it's my understanding that charges have been laid by Sims or --

THE COMMISSIONER: Oh, quite.

MR. MEURIN: At Sims instigation against officer Schlegel. No great comment was made at the time. No doubt Mr. Macdonald has instructed his clients that first and foremost they are to tell the truth and so long as they adhere to that, I would say that he has no fear.

THE COMMISSIONER: Mr. Meurin, I believe Mr. Macdonald's concern was not that charges have been laid but that charges are pending and I am certain that if any such action is contemplated that my remarks will be considered.

Mr. Peacock.

MR. PEACOCK: Thank you. Call Gerald Poole, please.

GERALD WILLIAM POOLE,
having first been duly sworn, examined by Mr. Peacock,
testified as follows:

Q Mr. Poole, you are an inmate at the Calgary Correctional Institute, are you?

A That's right.

Q How long have you been there?

A Approximately 16 months.

Q And how long is the sentence you are serving?

A 2 years less a day.

Q And what is the charge that you were convicted of that you are there for now?

A Welfare fraud, fraud welfare.

Q I'm sorry?

A THE COMMISSIONER: Fraud on the Welfare Department.

MR. PEACOCK: I see, fine.

Q On July 17th were you an inmate at the Institution?

A Yes, I was.

Q And where were you housed on that day?

A The cell block area.

Q In the cell block itself?

A Yes.

Q Do you know what level you were on?

A B Range.

Q And who were the fellows immediately adjacent to you in the cell block, do you recall?

A Would you repeat that again?

Q Who was next to you in the cell block?

A Cleaners cell block, Cleaners.

Q Do you remember their names?

A Yes.

Q Who were they?

A Black, number one; number two, myself; number three, I

don't know his name. Number four was -- I just know -- I just know the Cleaners up to number nine. Number seven and eight, John Gray and Bilsky, Michael Bilsky and John Gray and Cadieux.

Q Where were they in relation to your cell? Were they across from you?

A Beside each other.

Q I see. And where were they in relation to you? Were they down the cell block on the same side as you?

A Yes.

Q Alright. Now, that day what happened? Something out of the ordinary?

A Nothing peculiar, nothing that I can think of.

Q On the 17th of July?

A On the 17th of July, yes.

Q Did you make a home brew that day?

A No, I didn't.

Q I see. Did you get taken to the hospital that day?

A Later on that night we were.

Q Alright. Tell us what happened to lead to you being taken to the hospital?

A Well, we were up in the B Range, Bilsky and myself. A call was made for Bilsky to go down to the guard room, proceed to the guard room. And then that was the last I heard of him. Then they called me about 15 minutes later. I was proceeding to the guard room and the deputy warden said I was going to be taken -- put in the hole.

Q Did they tell you why?

A They said the reason why was because I was drinking.

Q What were you drinking?

A Home made brew.

Q And had you made this home made brew?

A He never asked me that. He just said there was a brew made. He didn't say by whom.

Q I see. And as a result of his allegations you were placed in the hole?

A Yes.

Q Along with Bilsky and Cadieux?

A Bilsky, Cadieux, John Gray and myself. They were already in there before I got there.

Q Had you in fact been drinking home brew that day?

A Yes.

Q And this had been concocted out of what?

A Tomatoe juice, yeast, sugar and warm water.

Q And what had ^{it} been brewed in?

A A plastic milk bag.

Q I see. And the four of you had consumed that during that day, had you?

A At six that -- six p.m. that night.

Q I see. Had it affected you in any way?

A Not in particular, no.

Q I see. And do you know how it came to the attention of the Assistant Deputy Warden that you had been drinking home brew?

A I don't know who, something -- somebody might have suspected this, home --

Q I see. And so the four of you were placed in the hole?

A Yes, in detention.

Q What happened down there?

A They came back. We were sleeping. Some fellows were sick.

Q Do you know who was sick?

A Al Cadieux, Bilsky possibly. Then half an hour later they came down and they told us we were to be taken down and pump our stomachs out, to pump our stomachs out.

Q Did they tell you where they were taking you?

A Didn't say off hand where they were going to take us, just took us to the guard room.

Q Were you sick?

A No.

Q Okay. What happened when you got to the guard room?

A We were handcuffed, placed in the staff vehicle, taken down to the -- to the hospital.

Q Now, I will just interject.

A Yes.

Q Were each of you handcuffed?

A Singly handcuffed.

Q Were you hands handcuffed in front of you or behind you?

A In front.

Q And each of you had a set of cuffs on individually?

A Yes.

Q And what kind of a vehicle was this staff vehicle that you were placed in?

A A panel, panel truck.

Q I see. And did they then take you to the Foothills Hospital?

A No.

Q Where did they take you?

A Took us to the outpatients department.

Q Where?

A In front of the Foothills Hospital.

Q At the Foothills Hospital?

A Yes.

Q And on the way down, were there guards in the truck with you?

A Yes, there was.

Q And do you know the names of those guards?

A Yes.

Q Who were they?

A William Andrews and Officer Morrow. I don't know the other two.

Q There were four guards in the truck with you?

A Four guards in the truck.

Q Now, when you arrived -- on the way down to the hospital from the institute, were there any discussions made between the guards and the four of you?

A No, there wasn't nothing. Just -- nothing said. There was discussion "Where are we going?". You know, that --

Q Were you told?

A No.

Q I see. Now, what happened when you got to the hospital?

A A scuffle in front of the outpatient department.

Q Alright. Tell us how that started?

A I was out of the truck...I was the last one out of the truck. I proceeded to the inside the hospital. Didn't get involved in the fight whatsoever.

Q Did you observe it happening?

A I just observed.

Q What did you see?

A Well, I saw -- I didn't see too much. I saw a conglomeration of fists flying. That was about all I saw there. Taken into the hospital by Officer Morrow, inside the hospital.

THE COMMISSIONER: Excuse me, is it Morrow
or Morrell?

A M-O-R-O-W I think it is.

THE COMMISSIONER: Okay.

Q MR. PEACOCK: Now, you were the last one out of the vehicle, is that correct?

A The last one out, yes.

Q So you would be in the vehicle when the doors were opened on the vehicle?

A Yes.

Q What happened when the doors were opened?

A When the doors were opened, I was pulled out of the truck

onto the -- onto the pavement of the loading range.

Taken in the back way through the -- into the hospital.

To my left there was the fight.

Q And did you see how the fight started?

A I didn't see off hand, no.

Q I see. Who was fighting?

A I saw.-- all I saw was an officer, I don't know who it was, pulling on somebody. Fists were flying through the air. I didn't see off hand who they really were, just that my friends were involved.

Q And that's Bilsky and Cadieux?

A Cadieux, yes.

Q Was Gray involved?

A Not to my estimation, no.

Q Did you see some police arrive?

A I saw some police come up with a dog, one or two dogs and I -- I left. I didn't stay.

Q Were the police involved in this scuffle that was going on?

A Yes, they were.

Q You didn't see how it happened or you didn't see what gave rise to this altercation?

A No.

Q Alright. What happened next? You were taken inside?

A I was taken inside, placed on a table. I still had the handcuffs on and the nurse gave me something to make me sick. And then Mr. Merriam came and asked me how I was

doing. I said "Fine, I feel alright now". I didn't --

Q Mr. Merriam, did he accompany you down or did he come obviously in a second vehicle?

A He came in another vehicle.

Q I see. And he asked you how you were feeling and you said "Fine now"?

A Yes.

Q Had you started to feel poorly on the way down to the hospital?

A No, not down there. I felt bad when I was in the hospital.

Q I see. And they gave you something?

THE COMMISSIONER: That was before you got this --

A Yes.

Q -- Nurse?

A Yes.

MR. PEACOCK: And after they gave you this stuff to make you sick, you felt better?

A Yes.

Q And you so advised Mr. Merriam?

A Yes.

Q Did you see Bilsky, Gray or Cadieux after you were in the hospital?

A Only when they -- only when we left, only when they left the hospital.

Q Do you have any idea how long you were there?

A We were there about two and a half hours, two hours,

three hours at the most.

Q During this time you didn't see any of the other people?

A No.

Q I see. And then were you ultimately placed back in the van to go back to the institute?

A Yes, in the police van.

Q The police van?

A Yes.

Q Were you handcuffed before you were placed in the van?

A Ah, yes.

Q Do you recall if you were handcuffed with your hands in front of you or behind?

A In front.

Q And were the four of you placed in the van?

A The four of us.

Q And were each of you handcuffed?

A Yes, singly.

Q I see. Do you know who the officers were who were in the van with you?

A I recall the case of Sgt. Habert I believe it was. I am not positive. I don't recall. I know -- I know what they look like.

Q But you can't recall their names?

A Can't recall their names, no.

Q How many officers were in the van with you?

A Two.

Q Just police officers?

A Yes.

Q And they drove you back out to the institute?

A To the institute.

Q Is that correct?

A Yes.

Q During the ride out to the institute, do you recall yourself or any of the other inmates in the van making any threats or making any suggestions to the officers that you were going to escape?

A No, I don't recall, no.

Q Was there any discussion had between you and the inmates or the inmates and the police officers on the way back to the institute?

A No, I don't recall any, no.

Q Alright. What happened when you got back to the institute?

MR. MACDONALD: Just before the witness answers that, I would like the witness to know that he can if he wishes seek the protection of the Canada Evidence Act. For any answer that he feels he may now be giving that might tend to incriminate him, he can refuse to answer that.

THE COMMISSIONER: Mr. Poole, the situation is this. If you feel that the answer that you will be required to give to any questions put to you by Mr. Peacock might tend to incriminate you, you may say that you decline to answer on that ground. I will then direct that you do

answer and the moment that happens, then you have automatically the protection of the Canada Evidence Act and the Alberta Evidence Act.

A Yes.

THE COMMISSIONER: But you must decline to answer on the grounds that it tends to incriminate you.

A Yes.

THE COMMISSIONER: The moment you decline to answer on that basis and you are ordered to answer, then you automatically have the protection of the Canada Evidence Act. That's how you get it. Do you understand me?

A Yes.

THE COMMISSIONER: Alright. If then with respect to any question you feel it may tend to incriminate you, you may say you decline to answer on that ground. I will direct you to answer and you will have the protection.

Q MR. PEACOCK: Mr. Poole, I think the question I asked you was what happened when you got back to the hospital or to the institute? I'm sorry, from the hospital?

A The vehicle stopped in front of the institution. The sergeant, whoever it was come around and opened the door, asked us to get out of the back of the truck. So we got out, we got out the back. Approached with our arms out the back of the truck. I approached the door and was

yanked out of the truck.

Q Do you know who yanked you out of the truck?

A I think it was some sergeant, some sergeant or officer of the police.

Q A police officer?

A Yes.

Q Alright. What happened then?

A I tripped and went to the ground. A dog grabbed me. I got up to protect myself away from the dog.

Q Do you know whose dog this was?

A It was an attack dog, it was an attack dog from the police department I believe.

Q Had that dog been in the truck with you on the way back from the hospital?

A No, no, it wasn't.

Q You say you got out of the truck and you slipped and fell?

THE COMMISSIONER: Tripped.

A I slipped and fell.

Q So you tripped and fell?

A Yes.

Q And when you were down on the ground, is this when the dog attacked you?

A No, when I started to rise. It was right beside the policeman when I arose.

Q Did you say anything?

A I grabbed some -- I grabbed a rain coat. That's all I remember.

Q Now, when you grabbed the rain coat was this when the dog is attacking you or prior to this?

A The dog was biting then.

Q Where did he bite you?

A On the side of my chest.

Q Did he break the skin?

A Yes, he did.

Q And were you bleeding as a result?

A Yes.

Q Do you have any scars as a result?

A Yes, I have.

Q Do you wish to see the scars, sir?

THE COMMISSIONER: No, I will accept the evidence.

MR. PEACOCK: Fine.

Q Now, just to get my mind straight. You got out of the truck and you tripped and fell and as you were getting up the dog attacked you, is that correct?

A Yes.

THE COMMISSIONER: Did you immediately complain that you had been bitten?

A Yes.

THE COMMISSIONER: Were you given a shot for rabies?

A Not for rabies, just --

THE COMMISSIONER: Tetanus?

A Yes, bandage.

THE COMMISSIONER: It was bandaged by
a member of the institution?

A The nurse.

THE COMMISSIONER: A male nurse or --

A Female nurse.

THE COMMISSIONER: I'm sorry, Mr. Peacock.
I just wanted to get that clear.

Q MR. PEACOCK: You were then rising off
the ground when the dog attacked you. Do you recall a
police officer saying anything to the dog to get him to
come after you?

A No, no, I don't.

Q Do you recall hearing a police officer saying anything to
the dog to get him to quit coming after you?

A Never heard.

Q Were there any staff of the institute present at this
time that you were able to see?

A Yeah, I picked out a few.

Q Do you know who was there by name?

A Officer Cater, Andrews, Morrow.

Q Was Mr. Merriam there, do you recall?

A Mr. Merriam, the only time I met Mr. Merriam was inside the
guard room.

Q After you got there?

A Yes.

Q Alright. Now, when this dog was attacking you you were
just rising, is that correct?

A Yes.

Q And is that the time you grabbed the rain coat?

A Yes.

Q Do you know whose rain coat you grabbed?

A I recall it was a police -- a policeman.

Q And what was the purpose of grabbing the rain coat?

A For balance. Grabbed -- grabbed somebody. I don't know who.

Q The rain coat was on the officer, was it?

A Yes.

Q What happened then?

A Somebody hit me with a blunt instrument, a flashlight.

Q And where were you struck?

A On the right side of my temple.

Q I see. Do you know who it was that struck you with the flashlight?

A Yes, I do.

Q Who was it?

A It was officer Cater.

Q And what happened when he struck you with the flashlight?

A I fell to the ground. I fell to the ground. I was grabbed again by another officer.

Q Do you know who that was?

A Officer -- yes, I do.

Q Who?

A Officer Addinall.

Q And what happened when Officer Addinall grabbed you?

A He grabbed me by the arms, twisted my shoulder around, threw me to the stairs, tripped again. Pushed me all the way down the hall right into the guard room office.

Q Now, when you were struck with the flashlight this was outside the institute, was it as you were getting out of the truck?

A Yes.

THE COMMISSIONER: I take it it's after the biting incident, was it?

A Yes.

Q MR. PEACOCK: After the dog had bitten you?

A Yes.

Q Then it was Mr. Addinall you say that pushed you down the hall to the guard room?

A Yes.

Q Were you struck between the front door and the guard room by any guard?

A I was struck by, like officer Cater hit me in front of the prison.

THE COMMISSIONER: Excuse me. Were you brought in the front door or the reception?

A The reception door.

THE COMMISSIONER: That's at the back of the institution?

A The back of the institution, yes.

Q MR. PEACOCK: What happened when you

got to the guard room?

A I was thrown into the office.

Q By whom?

A By officer Addinall. Thrown on the floor and I recall I looked up in the warden's face.

Q Warden Jackson?

A Warden Jackson stating did I wish to make a statement to this effect. I didn't know what effect he meant.

Q This was in the guard room?

A Yes.

Q Was it?

A Yes.

Q What did you reply?

A I said "I can't at this time because I don't know what I'm saying".

Q When you were struck by the flashlight outside the institute, were you cut as a result?

A Yes, I was, yes.

Q Were you bleeding?

A Yes.

THE COMMISSIONER: Was that treated by the nurse?

A It was treated by the nurse, yes.

THE COMMISSIONER: With a bandage or something?

A Yes, bandage.

THE COMMISSIONER: No stitches?

A No stitches required.

THE COMMISSIONER:

Is this a female nurse?

A Female nurse, yes.

Q MR. PEACOCK:

Now, when you got to

the guard room and Warden Jackson asked you if you

wished to make a statement and you said no, what happened then?

A I was taken up to the hospital.

Q That's the hospital in the institute?

A Yes, MIR.

THE COMMISSIONER:

Medical Inspection

Room, right?

A Yes.

Q MR. PEACOCK:

And that's when you were

treated for the injuries?

A That's when I was treated for the injuries, yes.

Q And that was a cut on your head from being hit by a flashlight?

A Yes.

Q And also the dog bites?

A The dog bites, yes.

Q You were treated and when your treatment was finished, you were then taken where?

A Then I was taken down to the segregation part of the prison.

Q Who accompanied you down there?

A John Schlegel, Mr. Merriam, Mr. Cater and two other officers which I don't know who they were, not by name.

Q I see. Were you struck on your way down to the segregation area?

A Yes, I was struck with a fist.

Q By whom?

A Cater I believe it was or somebody. Cater I believe.

THE COMMISSIONER: Now, are you sure?

A Yes, I was struck on the side of my face by somebody.

THE COMMISSIONER: By whom?

A Officer Cater.

Q MR. PEACOCK: Were you offering any resistance prior to being struck?

A No resistance.

Q Were you walking or were you standing or what happened?

A I was walking and I fell, pushed into the cell.

Q Was this down in the segregation area itself where Mr. Cater struck you with his fist?

A Yes.

Q Were you just going into the cell at that time?

A Yes.

THE COMMISSIONER: Mr. Peacock, perhaps you might help me. Is the witness still handcuffed at this time?

MR. PEACOCK: Were you still handcuffed?

A No, I wasn't. I was free of handcuffs.

THE COMMISSIONER:

When were your hand-

cuffs removed?

A The handcuffs were removed upstairs in the guard room office.

THE COMMISSIONER:

Before you spoke to

the warden?

A Yes.

Q MR. PEACOCK:

Now, when you were

taken into the cell block by Mr. Merriam, Mr. Schlegel, Mr. Cater and two others were there any other inmates with you or were they already down in the segregation area?

A They were already in the segregation area.

Q And that would be Cadieux, Gray and Bilsky?

A John Gray was not present.

Q I see. Just Cadieux and Bilsky?

A Yes.

Q Were in segregation when you got there?

A Yes.

Q Now, you say that you stumbled and fell as you were going into the cells, is that correct?

A Yes.

Q And did you fall to the ground or did you just stumble?

A I hit the door or something. I stumbled onto the bed and that was the end of the night.

Q I see. When was it that Mr. Cater struck you with his fist?

A Downstairs in the segregation part of the prison.

Q Well, was it on your way into the cell or --

A On my way into the cell.

Q Was he beside you or behind you or where?

A Behind me.

Q What did he do, just reach forward --

A Yes.

Q And give you a punch like?

A Yes. It wasn't enough to do any damage but he touched me.

Q I see. Were you being pushed or shoved along?

A Yes.

Q All your way down?

A Yes.

Q From the medical room?

A Yes.

Q Tell me this, is it a fact that you were somewhat still under the influence of this home brew that you had drunk that night?

A A possibility, yes.

Q I see. That home brew did in fact have some effect on you as far as you are aware?

A It had some effect but I wasn't poisoned like they said I was.

Q I think you have indicated earlier you felt sick prior to them giving you the shot or whatever it was in the hospital?

A Yes.

Q Do you feel that that was as a result of having consumed this home brew?

A It could be that reason, yes.

Q Did you feel after you were sick and on the way back to the institute and when you were at the institute that you were unsteady on your feet in any way as a result of having consumed this stuff?

A No, no.

THE COMMISSIONER:

I am just curious,

Mr. Poole. How much did you consume?

A One half a gallon.

MR. PEACOCK:

That was you yourself?

A Yes, myself.

Q Are you aware of how much the other fellows had consumed?

A One gallon a piece.

Q And how long had this stuff been preparing itself in the cell block? Can you tell me that?

A Three days, approximately three days.

Q I see. And it was yeast and tomatoe juice?

A And sugar.

Q And sugar?

A Yes.

Q And I take it you just throw this all together into a plastic milk bag and let it sit there?

A Right.

THE COMMISSIONER:

It really wasn't classed

a special formula, was it?

A No.

MR. PEACOCK:

And you drank half

a gallon of it prior to going to the hospital?

A Yes.

Q And that in fact was the least amount that anyone of the four of you drank that night?

A Yes.

THE COMMISSIONER:

How is it you only

got half a gallon, Mr. Poole?

A Well, they were -- they were given -- it wasn't mine to begin with.

THE COMMISSIONER:

I see. It was just a

fringe benefit, was it?

A Yes.

Q MR. PEACOCK:

I take it as far as you

are aware the officials of the institute felt that perhaps you had all poisoned yourself?

A Yes.

Q Is that correct?

A Yes.

Q And you didn't feel that you had been poisoned?

A No.

Q Did the tomatoe juice look alright before you were drinking it?

A It looked alright. It was a little white. The yeast

possibly.

Q Now, I gather that the injuries you received consisted of a cut on the head when you were struck by a flashlight outside the institute?

A Yes, yes.

Q And a dog bite?

A A dog bite.

Q On your chest area?

A Yes.

Q And you received a punch on the side of the head by Mr. Cater on your way into the cell?

A Yes.

Q Were you struck at any other time that night?

A. Not that I can recall, no.

MR. PEACOCK:

Alright. Would you

answer other counsel, please.

CROSS-EXAMINATION BY MR. WILKINS:

Q Mr. Poole, have you been drunk on alcohol in your life?

A Yes.

Q And how much of this brew would you have to drink to be drunk in your opinion? Was this your first experience with the brew?

A No, it wasn't my first experience, no.

Q Have you had a number of experiences with it?

A Yes.

Q Have you in your opinion been drunk on the brew before?

A Yes, I was drunk on this same solution before.

Q And how much did you drink on that occasion?

A I think three pints.

Q And this time you drank two pints. No, excuse me, you drank four pints this time.

THE COMMISSIONER: Two quarts.

MR. WILKINS: Four pints you drank this time?

A Yes.

Q But you weren't drunk this time?

A I wasn't what they call drunk but feeling pretty good.

Q You were feeling pretty good, yes. Did you make this particular batch?

A Ah, no. Helped make the solution.

Q You helped make it?

A Yes.

Q What all went into this batch of brew again?

A Tomatoe juice, yeast, sugar, warm water.

Q Was there any mint flavouring placed in it?

A No mint spray, no.

Q You are positive of that?

A Yes, I am, yes.

Q Did you have control of this at all times?

A I had control of this, yes.

Q Of the batch I am talking about?

A Yes, it was in a cell.

Q And how long a period did you drink this half gallon only?

A Approximately two hours.

Q And in your opinion when you left the cell to go to the hospital, were you having trouble walking?

A Yes, I was a little unsteady on my feet, yes.

Q Was your speech impaired in any way that you know of?

A Slurred, slurry a little bit. Not that much though, not that I recall.

Q Your memory must be a little hazy as to exactly what happened --

A Sometimes, yes.

Q That particular evening?

A Yes.

Q In fact, your memory is quite hazy as to all the events leading up to perhaps being given the medic in the hospital, is that correct?

A That's true, yes.

Q When did the effects of this finally wear off, Mr. Poole?

A In the morning.

Q In the morning?

A On July the 18th.

Q So in fact your memory is a little hazy from the time you started drinking this brew until you woke up the next morning?

A Yes, a bit.

Q Now, you say that Cadieux and Bilsky were sick?

A I was sick. I saw --

Q Now, I'm not talking about the hospital, Mr. Poole. I am talking about before you left the institution?

A Yes, yes.

Q Were Cadieux and Bilsky sick?

A Bilsky was laying down on his -- in a cell that I can recall. He wasn't -- he was feeling a little sick, yes.

Q He wasn't physically ill?

A No, no.

Q In front of you?

A No.

Q What about Cadieux?

A In the same -- in the same indication as Bilsky.

Q And they had drunk a gallon each of this?

A Yes.

Q And were you talking to them in the cells?

A Yes, I was, yes.

Q Did you have difficulty understanding them?

A No, no difficulty, no.

Q Did you see them walking at all?

A I saw Bilsky, Cadieux and John Gray walking.

Q Were they having difficulty walking?

A No. It didn't seem -- it didn't seem that way. It didn't seem they had no difficulty in walking.

Q You were the only one having difficulty in walking?

A I sat down, yes.

Q You were having difficulty in walking?

A No, I wouldn't say that, no, no. I could walk.

Q But your speech was slurred?

A Yes.

Q Was their speech slurred?

A Yes.

Q And how much did Bilsky drink, do you know that?

A I don't know off hand how much it was. There was four gallons.

Q And it was all drunk?

A Yes, except -- except one gallon which was poured down the toilet.

Q So three gallons were drunk that evening?

A Yes, approximately three gallons.

Q Between --

A Between --

Q Bilsky, Cadieux, Gray and yourself?

A Yes, umm hmm.

Q And you drank one half gallon?

A Yes.

Q I see. So in your opinion, did you see the other people drinking?

A Yes, I saw the fellows drinking.

Q Were you all drinking together?

A Yes, in one cell we were, yes.

THE COMMISSIONER:

The four of you in one

cell?

A Four of us in one cell.

THE COMMISSIONER:

How did four of you get

in one cell?

A I was standing up leaning against the wall.

THE COMMISSIONER:

Crowded was it?

A Crowded, yes, it was slightly crowded.

Q MR. WILKINS: Would it be fair to say Mr. Poole that of the four of you who were drinking, you drank the least amount?

A Just about the same as the rest, yes. I don't recall them drinking a large quantity but I know that I didn't consume as much as some of the rest had consumed.

Q Well, let's just go over this again. How big a container is this plastic container that you are talking about?

A A plastic milk bag. It was a bag.

Q It was a five gallon bag, is that correct?

A Five gallon bag, yes.

Q And was it full when you started?

A Half.

Q Well, do you know really how much home brew you had Mr. Poole or don't you?

A I don't know exactly but it was either between four gallons and five gallons I believe.

Q And it was a five gallon bag that's half full, but it had four or five gallons in it?

A Yeah, it would be four or five.

Q Well, assuming that there were four gallons in it, Mr. Poole, giving you the benefit of the doubt, you drank one half gallon?

A Yes.

Q And the others drank the same?

A The same.

Q So that comes out to two gallons. Now we are down to two gallons. Is this just an indication Mr. Poole of the state of mind you were in that evening that you have very little recollection of anything that evening?

A I was vague, vague on certain aspects of it.

Q Very vague?

A Yes, and --

Q Now, on the way to the hospital in the vehicle from the jail, Mr. Poole did you hear any discussion taking place between the guards and the inmates?

A No.

Q Did you hear any of the inmates say to the guards that they were fucking pigs and cock suckers?

A Yes, I did. I heard that, yes.

Q Well, did you or didn't you hear anything, Mr. Poole or don't you know?

A Well, I have heard these -- I heard a few words that were put around but not -- not pointed, not at each other.

Q Well, did you hear those terms that I just used?

THE COMMISSIONER: Now, look Mr. Poole.

A Yes.

THE COMMISSIONER: Let's get one thing clear. You are under oath here.

A Yes.

THE COMMISSIONER: Now, I understand if you don't want to name a specific inmate who made these

remarks because I understand a code goes on out there.

A Yes.

THE COMMISSIONER: If you don't want to name him, I am not going to ask you to. But if you did hear inmates make those remarks, I want you to tell counsel. Is that clear?

A Yes.

THE COMMISSIONER: Alright. Now, take it from there.

MR. WILKINS: Mr. Poole, did you hear any of the inmates call the officers fucking pigs or cock suckers, either or both?

A I heard.

Q Pardon me?

A Both.

Q They did call them that. What other names did they call them, Mr. Poole?

A No other names.

Q Did you hear any of the inmates in the vehicle at that time say that if they were to take the handcuffs off them, that they would run over the guards and take off?

A No, no.

Q You are positive you never heard that?

A Absolutely.

Q Did you hear any questions or remarks made about escaping from the vehicle?

A No.

Q Did you hear any remarks or statements made about attacking the guards once they got outside the vehicle?

A No.

Q Did you notice anybody's condition worsen from the time you left the gaol until you arrived at the hospital?

A No, I don't think.

Q Was there anybody sick in the truck?

A Nobody was sick.

Q Who were you handcuffed to, Mr. Poole?

A I was handcuffed going down to the hospital or coming back?

Q Going down to the hospital?

A I was handcuffed to myself, singly.

Q Cuffs in front or behind?

A Front.

Q When you stopped at the hospital were the doors opened from the inside or the outside of the van?

A Outside of the van.

Q Are you sure of that?

A I think, yes, they were, yes.

Q From the outside?

A Yes.

Q Who got out first?

A I don't recall. It was either Bilsky or Cadieux.

Q Well, whoever got out first Mr. Poole, did you see him give the handcuffs to the person that was opening the doors?

A No.

Q You never saw anybody struck in the face with a pair of handcuffs?

A No.

Q You are positive of that, Mr. Poole?

A Yes.

THE COMMISSIONER: Perhaps you might help me, Mr. Wilkins. Are you talking about an inmate or a guard was struck by handcuffs?

MR. WILKINS: I am talking about a police officer, City Police Officer. Did you see a City Police Officer struck in the face with handcuffs?

A Definitely not, no.

Q At no time you saw that?

A No.

Q Were you the last one out of the vehicle?

A I was the last one out of the vehicle, yes.

Q Now, when you were in the hospital Mr. Poole, you stated to Mr. Merriam before having received the medication at the hospital that you felt "Alright now", is that correct?

A Yes.

Q So in other words, you had not felt alright on the way down. Were you nauseous?

A Yes, I was a little nauseous and I was -- when I was sick in the hospital I felt a little -- little better after I was sick but not before.

Q Well, did you not say to Mr. Merriam before you were given the medication that you felt alright now when you sat

down?

A No, I don't think.

Q That's not your evidence?

A No.

Q How good is your recollection of what went on at that hospital, Mr. Poole?

A I was taken in a room and that was it.

Q That's all you remember basically is being taken into a room?

A Yes, that's all. Laid down on the table. The nurse was --

Q And your recollection of the fight and the scuffling that took place is very vague, isn't it Mr. Poole? Isn't that a fair statement to make?

A Vague, yes.

Q You just recall that there was some scuffling going on?

A That's all.

Q But you can't really --

A No.

Q -- identify anybody?

A No, no.

Q You can't identify any of the inmates?

A No.

Q Or prisoners or anyone else that was throwing the punches, can you, Mr. Poole?

A No.

Q Now, do you recall making a statement, a written state-

ment with regard to this matter, Mr. Poole?

A Yes.

Q I am showing you a -- is that your signature on the bottom of that?

A Yes.

Q I am showing you the numbers at the top of these various excerpts. Would you read that, please.

A Truck, was thrown to the dogs.

THE COMMISSIONER: Has he admitted that that is his statement? Has he signed it?

MR. WILKINS: Yes, he has, sir.

Q This is your statement, is it?

A Yes.

Q And that's your signature?

A Yes.

Q Perhaps you could start reading it. "We started"--

A "We started" --

THE COMMISSIONER: Is it in his handwriting?

MR. WILKINS: Yes, it is, sir.

A "We started getting beaten. Then pulled from the truck. I was thrown to the dogs, descending on me with massive bites".

Q Is it fair to say Mr. Poole that you were thrown to the dogs?

A It seemed to me -- it seemed that the way they pulled me off the -- the way I hit the dog.

Q Now, you hit the dog?

A No. The dog grabbed me as soon as I hit the ground.

Q Well, did you hit the dog?

A No, no, I didn't touch the dog.

Q Was it not your evidence earlier when Mr. Peacock was questioning you that when you got out of the vehicle you tripped and fell to the ground?

A Yes.

Q Well, that's not really being thrown to the dogs, is it Mr. Poole?

A No, no. thrown on the ground.

Q Well, were you thrown on the ground or did you trip and fall to the ground?

A I tripped on the edge of the truck and fell to the ground.

Q Then you weren't thrown? You tripped?

A Yes.

Q What door of the Correction Institute were you brought in through?

A The main part of the prison, the reception area.

Q Pardon me?

A The reception.

Q Through the front door?

A Yes.

THE COMMISSIONER:

No, that's not the front

door, Mr. Wilkins.

MR. WILKINS:

I'm sorry, sir.

A Now, you stated that when you were in front of Warden

Jackson you said that you couldn't make a statement because "I don't know what I'm saying", is that correct?

A Yes.

Q Why did you say you didn't know what you were saying?

A Because I didn't feel it was properly the time to say anything to the Warden because I was under the influence of -- of the alcohol

Q You were afraid Mr. Poole, were you not that whatever you said wasn't a competent statement? That if you were to give a statement at that time that in fact your recollection was so poor that the statement that you would give would not be a fair indication of what had happened in effect, is that correct?

A I made a statement after, two months after this or a month after.

Q Would you answer the question please, Mr. Poole.

THE COMMISSIONER: Mr. Wilkins, it's a bit of a complicated question. Perhaps you could put it again.

MR. WILKINS: Okay.

Q Mr. Poole, you stated to the Warden that you wouldn't make a statement because "I don't know what I'm saying", is that correct?

A Yes.

Q And is tht reason you said you didn't know what you are saying, is the reason for that that your condition was in

such a bad shape from the alcohol or from the brew that you were afraid to give a statement because you didn't think it would be a proper indication of what had happened that evening?

A Yes.

MR. WILKINS: Nothing further, thank you.

CROSS-EXAMINATION BY MR. MACDONALD:

Q Mr. Poole, regardless of how much you had to drink and putting a number on it or not, you certainly were under the influence of this brew when you originally went to the hospital, is that right?

A That's correct.

Q On the way to the hospital how was everybody cuffed?

A Singularly cuffed.

Q Hands in front?

A Hands in front.

Q When you say singly cuffed, does that mean you were not cuffed to a guard?

A Yes, true.

Q Or to another prisoner?

A Yes.

Q Now, this vehicle we are talking about that you rode in, what sort of a vehicle was it?

A Panel station wagon.

O I'm sorry?

A Panel station wagon. Station wagon, staff vehicle.

THE COMMISSIONER: You would call it a panel truck, would you?

A Panel truck, yes.

THE COMMISSIONER: I understand that.

MR. MACDONALD: I think I understand that. We are not talking about a regular station wagon with a front seat, middle seat and a back area, is that right?

THE COMMISSIONER: We are not talking about a van. We are not talking about a station wagon. We are talking about a panel truck?

A Yes.

MR. MACDONALD: Has the panel truck got sides on it in terms of, are there seats in the back?

A Yes.

THE COMMISSIONER: Benches along each side, is it?

A Yes, there was.

THE COMMISSIONER: I haven't been in it but I have seen it.

Q MR. MACDONALD: Has the commissioner accurately described the benches along each side?

A Yes.

Q Where were you seated in that van?

A I was seated approximately at the back of the truck.

Q At the back. Does that mean near the doors that open

at the outside or near the driver?

A Near the back. At the entrance to the truck.

Q How did it come that you were the last one to leave the van? Were the ones closest to the driver out first?

A I was at the rear of the truck and there was an officer sitting beside me to my right, and the other chaps were ahead of me. They got out naturally first from the side of the truck.

Q Now, during your trip to the hospital did you have any problems with any of the guards?

A No problems whatsoever.

Q Did you yourself swear at any of the guards?

A No, I didn't.

Q And I take it by the time you got outside the van, the scuffle was already in progress?

A Yes.

Q And you are unable to tell us who did what?

A Yes.

Q How many guards and police officers were there at the time that scuffle was in progress?

A Oh, four, eight. Four, five, six -- six I think at the most.

Q All the inmates again are handcuffed at this point when the scuffle is going on, is that right?

A Yes.

Q Did you participate in that scuffle in any way?

A No, I was rushed right inside the hospital.

Q Was gas used on the prisoners at that time?

A I didn't see anything.

THE COMMISSIONER: Did you smell anything?

A No.

Q MR. MACDONALD: When you got inside you were just given something that caused you to vomit?

A Yes, to make me sick, yes.

Q And I take it that you lost everything that had been in your stomach?

A Yes.

Q Up to what, noon that day?

A From supper on.

Q From supper on. When you got back into the van to go back to the institute, were you feeling sick?

A No, I was feeling alright then.

Q Feeling a little weak?

A Yes.

Q Now, when the van stopped at the front of the institution, could you see outside?

A Yes, I could see.

Q What did you see?

A I saw what looked to me like a circle of police, guards, changing shift.

Q It looked like they were changing shift did you say?

A It looked like it. They were waiting for us or something or other.

Q How many people are we talking about?

A Close to -- close to around 100 people.

Q That's one zero zero?

A Yes.

Q You have indicated that you tripped coming out of the van. Did anything happen to you before you were tripped?

A Nothing happened to me, no.

Q Were you pushed or pulled out of the van?

A Pulled out of the truck by an officer seemed to me.

Q Was this officer outside on the ground?

A Outside on the ground.

Q How many times did you hit the ground or fall to the ground between the van and the guard?

A Five, six -- six times.

Q Was this due to your inability to walk or were you pushed down?

A Pushed down.

Q Are you bothered today by any of the injuries you received?

A Yes.

Q Would you tell the commissioner about that, please.

A My right eye is blurred.

THE COMMISSIONER: Is there a scar?

A No, no scar but from the blow I received on the side of my temple.

THE COMMISSIONER: This was from the flash-
light?

A Yes, from the flashlight.

Q MR. MACDONALD: Do you feel that blow

was the one you got outside or inside the building?

A Outside the building.

Q Have you spoken to the doctor about that at all?

A Put my name in and they never saw me.

Q Well, you did see the doctor about your bites?

A Bites, yes.

Q And the cuts that you received?

A Yes, yes.

Q Did you have any marks the next morning besides the bites and the cut to your head? Were your eyes black and blue?

A Yes, they were, yes.

Q Did you show that to anybody?

A Yes.

Q Who saw that?

A Schimsens, John Schimsens.

Q Did you strike anybody at any time?

A None whatsoever.

Q How were your cuffs on at the time you got back to the gaol? Were they in the front or at the back?

A At the front.

Q And were you handcuffed singly again?

A Singly.

Q You indicated that Mr. Cater struck you in the segregation cells, is that correct?

A Yes.

Q And what did he strike you with there?

A An open hand, fist.

Q A fist or any open hand?

A A fist.

Q And where did he strike you?

A On the shoulder.

Q You were not in cuffs at that point, I take it?

A No, I wasn't.

MR. MACDONALD:

That's all, thank you.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, you indicated that this brew was in your cell while it was being made?

A For a short while, yes.

Q For a short while?

A Yes.

Q How long?

A One day.

Q Where was it the rest of the time?

A In other cells.

Q Where?

A From the same range.

Q In whose cells?

A I cannot say.

Q I take it you don't want to say because you don't want to implicate other inmates?

A Yes.

Q Is that why?

THE COMMISSIONER:

I think --

MR. MEURIN:

That's fine. I won't

pursue it, sir.

Q Were you present sir when the brew was being mixed or made?

A Yes, I was, yes.

Q And you took part in that?

A Yes.

Q Now, do you know what I mean when I speak of mint spray?

A Yes, I do.

Q This is a sort of a deodorant type spray that they use at the institution?

A Yes.

Q Now, was any of that put in this brew?

A No.

Q You are positive of that?

A I am. I didn't see. I didn't taste it, smell it.

Q What does mint spray taste like?

A I don't know what it tastes like but I know the smell and I have smelled mint spray but it was not in the brew at all.

Q Were you a cleaner at this time?

A Yes, I was.

Q And these other three individuals that you have mentioned, Cadieux and Gray and Bilsky, they were all cleaners?

A Yes.

Q Now, would they have access to mint spray as would you at that time?

A Yes.

Q And since this incident, you no longer have access to that mint spray I take it, is that correct?

A That's correct, yes.

Q Now, sir at any time during that night, in other words from the time you were taken out of your cell and so on until you got back to the cell, and were put away again did you make any statement to anyone to the effect that mint spray had been used in this brew?

A No.

Q Did anyone else to your knowledge make such a statement?

A Not to my knowledge.

Q Was this not the reason why they were concerned and took you down to the hospital to have the contents removed from your stomach?

A I will say that I was in the association which is known at the hole. When I was down there Officer Cater and three or four other men came down and had these -- had the bottle of mint spray, a bottle of turpentine and a round disc.

THE COMMISSIONER:

A round what?

A A round -- round deodoriser and said "It's one of these articles". I said "It's none of those articles".

Q And this was before you were removed to the hospital?

A To the hospital, yes.

Q So to your knowledge there was some concern by some of the Correction Officers that there was something other than tomatoe juice, water, yeast and sugar in the brew?

A Yes.

Q Sir, when Mr. Peacock was examining you I was making notes and my notes indicate that you said in respect to questioning by him that on the way down there was no discussions. This was on the way down to the hospital, there were no discussions and there was nothing said other than that someone said "Where are we going?" And you weren't told where you were going. Did you make those kind of statements? Is that a fair summary of what you said in response to Mr. Peacock's questioning?

A Yes, yes.

Q Then when Mr. Wilkins was cross-examining you, you indicated that there were certain vulgar phrases directed at the guards, is that correct?

A Yes.

Q Well now, why did you say that there was no discussion or you didn't hear anything when Mr. Peacock asked you these questions?

THE COMMISSIONER: Well, Mr. Meurin I don't want to interfere but a discussion indicates a sort of dialogue. This may have been a monologue.

MR. MEURIN: Well, maybe that's playing on words, sir. Okay, sir.

Q On the trip on the way down, was there any discussion or any monologue or any words spoken by anyone with respect to escaping?

A None whatsoever.

Q Any similar statement to escaping?

A None.

Q You are positive of that?

A Positive of that.

Q Sir, I just want to be clear on it, when you came back to the jail, which entrance you used. I am showing you exhibit number four.

THE COMMISSIONER: Is that actually exhibit four?

MR. MEURIN: This is what my understanding is.

THE COMMISSIONER: Show him exhibit four, will you please.

MR. MEURIN: Which shows the front of the Calgary Correctional Institute. Is that where you were taken back into the gaol?

A Yes.

Q And where you would have left this morning would have been on the other side of the building, what they normally call the reception area, is that right?

A This is where we -- we unloaded right there, in this photo.

Q Just a minute.

A Yes.

Q When you came down this morning to testify at this inquiry, did you come out the front door in the picture that I have shown you?

A The front door of the prison, yes.

Q And that's where you were taken?

A That's where we were taken.

Q On the night that this incident happened?

A Yes.

Q Now, you have indicated that you tripped when you got out of the van?

A Yes.

Q What did you trip on?

A The edge of the door.

Q The edge of the door?

A Of the foot.

Q You mean the door of the van?

A The foot, the foot rest of the door.

Q Of the van?

A Of the van, yes.

Q And it was after you had fallen that you grabbed the rain coat for balance?

A Yes.

Q And it was then that the dog attacked you?

A Attacked me, yes.

Q So the dog didn't attack you until you had grabbed the rain coat?

A Until I grabbed the rain coat.

Q Sir, was there a dog or dogs present at the hospital?

A The Foothills Hospital?

Q Yes.

A Yes, there was.

Q You weren't attacked at that time?

A No.

Q Was anyone else?

A Yes.

Q Were they bitten or were they just -- the dogs just sort of bared their teeth and growled at people to make them settle down?

A They were bitten.

Q They were bitten?

A Yes.

Q Sir, I'm not sure you can give me a clear answer on this because you originally started out saying that you drank half a gallon and the others drank a gallon and so on. Are you somewhat confused about the quantities or can you say that the others drank more than you?

A I am not sure but it was distributed around to the other inmates but I don't know how much they consumed or how much I consumed but it was measured off by cups.

Q You had quite a few cups?

A Yes. How many cups I had --

Q You mentioned now that a quart was poured down the toilet, is that correct?

A Yes, it was, yes.

Q Why was it poured down the toilet? Let me start another way. Was it poured down the toilet by an inmate?

A Yes.

Q I won't ask you who. Why was it poured down the toilet?

A Because someone said that there was -- someone had known something, found out that there was a brew made in the block and as soon as the word got out, somebody poured it down the drain, down the toilet.

Q So you were just doing this to avoid detection?

A Avoid, yes.

THE COMMISSIONER: Nothing to do with the quality, Mr. Meurin.

MR. MEURIN: I was wondering about that.

Q Now, this van that you were taken down to the hospital in, it had no windows on the side, sides at all?

A Yes, it did, yes.

0 It did have windows on the side?

A Yes.

Q You would be facing sideways then when these other people were getting out ahead of you, is that right?

A I was facing the front of the driver. Everybody was facing the driver but there was side seats. You see, nobody was sitting on the side seats except two.

Q Well, everybody exited from the rear?

A From the side.

Q From the side?

A Yes.

Q Sir, is it not true that you would be looking in the direction of the open door when everybody was getting out?

A Yes.

Q You say you didn't see anything start when anyone got out of the door at all?

A They were far ahead of me when I got out of the truck last. They were already --

Q I am speaking of not when you got out of the truck, sir. I am speaking of when the first inmates are getting out of the truck. You are only a distance of maybe four or five feet away from them.

A Yes.

Q At the most. And as the doors opened, wouldn't you be looking out the door?

A Yes, I would be looking out the door.

Q And you tell me that you didn't see anything?

A I saw -- well, I decline to say what I saw but --

THE COMMISSIONER: Well, I will direct you to answer and you will have the protection of the Canada Evidence Act.

A Yes, yes.

Q MR. MEURIN: What did you see?

A I saw a scuffle.

Q Who started the scuffle?

A I don't know. I won't say who started the scuffle.

Q It was an inmate that started the scuffle?

A Yes.

Q Wasn't it?

A Yes.

Q He wacked a police officer in the face with his cuffs, didn't he?

A Yes.

Q So what you told us before when you said you didn't see anything was untrue, wasn't it?

A Yes.

Q Sir, as you have given false testimony on one occasion already this morning, is there any reason why we should believe any of the rest of your testimony?

A Well, like I saw -- I saw -- I failed to give the name. I don't want to give any names.

THE COMMISSIONER: I won't ask you.

MR. MEURIN: I have no further questions, sir.

MR. PEACOCK: I wonder if I might just ask one question, Mr. Poole.

RE-EXAMINATION BY MR. PEACOCK:

Q When Mr. Macdonald was asking you questions you indicated some differences which I think we should clear up. When you were being placed in segregation cells by the officers you indicated that Mr. Cater struck you?

A Yes.

Q You advised me earlier that you were struck on the side of the head by Mr. Cater. You advised Mr. Macdonald that you were struck on the shoulder by Mr. Cater. Which one was it?

A It was on the shoulder of me.

Q Alright. The only blow that you did receive on the head was the blow you received outside the institute by a flashlight?

A Correct.

Q Is that right. So when you were down in the segregation area and being put in your cell, I think your evidence is you were being hussled around and pushed around, is that correct?

A That's right.

Q And Mr. Cater struck you on the shoulder with his hand
or his fist?

A His fist.

Q I see. And was he behind you and swung around like that to hit you?

A Yes.

Q But a blow didn't land on your head?

A No.

Q You weren't struck in the head in the segregation area? .

A No.

Q And you were put into your cell and the cell was locked and that's the last of the incident?

A Yes.

MR. PEACOCK: Thank you. Those are all the questions I have, thank you.

THE COMMISSIONER: . Thank you very much
Mr. Poole.

(Witness retires)

MR. PEACOCK:
with another witness?

Do you wish to start

THE COMMISSIONER:
will be some time.

I take it your witness

MR. PEACOCK:

I think he will.

THE COMMISSIONER:
an inmate of the institution?

Is your next witness

MR. PEACOCK:
shown in this inquiry is that the first witness always
takes a little longer and it gets a little shorter as
we go along but I think probably we will be atleast 15
minutes with the next one.

I think the history as

THE COMMISSIONER:
to 1:30 then.

Perhaps we will adjourn

MR. PEACOCK:

1:30.

(Hearing adjourned)

DEPOSITIONS TAKEN ON OCTOBER 29, 1973 AT 2:00 P.M.

THE COMMISSIONER: Mr. Peacock, before you commence proceedings this afternoon there are a few comments that I would like to make.

It has come to my attention there has been a further incident over the weekend at the Institute. At the outset of these proceedings I asked all those directly concerned with the Inquiry and the news media to exercise restraint and responsibility in order that an already tense situation might not be further inflamed.

In view of this most recent incident I make a further plea for restraint and responsibility not only by the news media and those persons directly connected with the Inquiry but also those who under pressure of public duty feel compelled to make comments which reflect upon conditions at the Institute and the personnel thereof.

Thank you Mr. Peacock.

MR. PEACOCK: I might make a comment with respect to the course of proceedings of this week. In view of the fact that another committment of yourself we will be adjourning tonight and resuming on Wednesday morning, in other words, the Commission will not be sitting tomorrow.

THE COMMISSIONER: Thank you.

MR. PEACOCK: I would like to call John Gray, please.

THE CLERK: Your full name, please?

THE WITNESS: John Robert Gray.

JOHN ROBERT GRAY, having first been duly sworn, examined by Mr. Peacock, testified as follows:

Q Mr. Gray, I take it in July of 1973 you were an inmate at the Calgary Correctional Institute?

A Yes, I was.

Q You are now released, are you?

A Yes.

Q On that evening, the evening of July 17th, 1973 where were you housed in the Institute?

A In the cell block section of the gaol.

Q Do you know what section of the cell block?

A It was "B" section.

Q And that evening you and some of the other inmates consumed a beverage of some sort?

A Yes.

Q What was it?

A Well, it's hard to say, it was a little of everything.

Q Do you have any idea what was in it?

A Well, I know there was tomato juice and yeast and water and sugar.

Q And that had been sitting around fermenting, is that it?

A Yes.

Q And can you tell us approximately what quantity of this stuff you consumed?

A Well, I didn't like the taste of it so I only had about a bowl and a half of it.

Q Did it have any effect on you?

A Well, it had a small effect, you know, just warmed the brain but nothing serious.

Q You weren't drunk?

A No.

Q But it did affect you as if you had been drinking a more reputable alcoholic beverage?

A You could say that, yes.

Q All right, now, did something happen to you and the other inmates involved in the consumption of this beverage as a result of your drinking it?

A Yes.

Q What happened?

A Well, after we were in the cell drinking a guard came up and told us to go down to the guard room. Where I went is one of the interview rooms and Mr. Merriam was in there and he asked me if I had been drinking, and, well, I didn't answer him and he told me to open my mouth to smell my breath so I did.

He said: "You are on charge for drinking" and he told me I had to go to the hole and I told him that I couldn't go to the hole because I had claustrophobia and I said if I went to the hole

they would have to drag me down there and as soon as I said this Mr. Cater was watching from the hallway, just outside the door he came walking right in and then they started talking between themselves, Mr. Merriam and Mr. Cater and then Mr. Merriam informed me that I was supposed to go to the "A" west section of the cell block.

Q I see. He didn't send you to the hole but he told you to go to another section of the cell block?

A Yes.

Q I take it that is more open than the hole?

A Yes, it is.

Q Did either Mr. Cater or Mr. Merriam at that time were they questioning you about what was in this home brew.

A Not at this time.

Q So you ended up in the cell range in the "A" section?

A Yes, I did.

Q What happened next?

A Well, I was in the cell for approximately an hour and a guard opened the gate and he called me out and he told me to report to the guard room again and so I went down there and Mr. Merriam was there again and he told me that we were going to the hospital.

Q Did he tell you why?

A Well, because he figured the alcohol could have been

poisoned.

Q Were the other inmates involved at the guard room when you got there?

A Yes, they were.

Q Bilsky Cadieux and Poole?

A Yes.

Q And at this time how were you feeling?

A Well, by then I was feeling almost back to normal because I didn't have that much to drink in the first place.

Q You then proceeded into a van, did you?

A Well, first they put handcuffs on us.

Q Were you handcuffed?

A Yes, I was.

Q Were your hands cuffed in front of you or behind you?

A Well, I was cuffed to Cadieux.

Q You were cuffed to Cadieux?

A Yes.

Q Did you see if Poole and Bilsky were cuffed together?

A Yes.

Q Were they?

A No, they weren't handcuffed together but cuffed separately.

Q I see. You and Cadieux were cuffed together?

A Yes.

Q All right, explain to us what happened from then on?

A Well, after they put the cuffs on us they took us out in the Institution van and we were placed in there and we proceeded to drive down to the hospital and on our way down we were mouthing off a little about the inmates and the guards and the gaol in principle.

THE COMMISSIONER: Mr. Peacock, did he say who Poole was handcuffed with?

A Separately.

THE COMMISSIONER: He was handcuffed separately?

A Yes.

THE COMMISSIONER: And you and Cadieux were handcuffed together?

A Yes.

THE COMMISSIONER: Was there someone else handcuffed separately?

A Bilsky was handcuffed separately.

THE COMMISSIONER: Two together and two separately?

A Yes.

Q MR. PEACOCK: Now, you say that you and the other inmates were having a conversation with the guards on the way down?

A Yes, we were.

Q Was there anything mentioned about the inmates overtaking the guards and escaping?

A Well, not directly, not meaning escaping, it could have came up if there was a chance that we could we

could have but we never.

Q I see. This was a discussion amongst yourselves?

A Yes.

Q Was it loud enough for the guards to hear?

A Well, one of the guards were sitting right in where we were.

Q Do you know which guard that was?

A That was Mr. Morrow.

Q And during this conversation did it come up that you can overtake the guards if you wanted to?

A Yes.

Q Now, when you got to the hospital what happened?

A Well, the van pulled up and I seen a couple of city police standing around and, well, I wasn't really expecting anything but we got out of the van and then the next thing I knew I looked up and there was one of the city police he was using the butt of his gun on Bilsky trying to subdue him.

Q What type or shape was Bilsky in?

A Well, he was drunk.

Q What about Cadieux?

A Well, he was drunk but not in the state that Bilsky was.

Q What about Poole?

A About the same as Cadieux.

Q So Bilsky was the drunkest?

A Yes.

Q So the first thing you observed when you got out was Bilsky was having an altercation with a police officer?

A Yes.

Q Was the police officer striking him?

A Yeah, with the butt of his gun, the handle part of the gun.

Q Pardon me?

A The handle part of the gun.

Q Was it a rifle or a hand gun?

A Hand gun.

THE COMMISSIONER: Bilsky was singularly cuffed, was he?

A Yes.

Q MR. PEACOCK: Did you see what happened between Bilsky and this officer before he was struck?

A No, I didn't.

Q Was Bilsky standing up when he was struck?

A Well, he wasn't really standing up and he wasn't kneeling, you know, he was just sort of slumped over.

Q And then what happened?

A And me and Cadieux started mouthing off "Police brutality" this sort of thing and we were grabbed by the arms and we were sort of dragged towards the hospital entrance and we got sprayed with tear gas or mace, one of the two.

Q Do you know who did that?

A There was so much confusion I couldn't say for sure.

Q Was it a guard or a police officer?

A A police officer.

Q Now, prior to this, all during this time were you handcuffed to Cadieux?

A Yes, I was.

Q Did you see Cadieux strike any of the officers with the handcuffs?

A The way we were cuffed he couldn't strike an officer. If he struck an officer I would have to go up with him.

Q And you say that didn't happen?

A No.

Q You didn't see any of the officers get struck with the handcuffs that were on you and Cadieux?

A No.

Q Did you strike any of the police officers?

A No.

Q Were you struck by any of them?

A Well, not struck, I was dragged and shoved.

Q What happened -- you are on your way in when you were sprayed with gas?

A Yes.

Q Were you resisting movement at the time you were sprayed?

A Well, when any person is grabbed or shoved or pulled you are trying somehow to defend yourself so I was

trying to pull away just for your own safety --

Q Is that what you were doing?

A If there was any resistance that is what it was.
I was just protecting myself.

Q And it was during this time that you were sprayed
with the gas?

A Yes.

Q When you got into the hospital what happened?

A We went in the hospital and we were by the desk,
the main desk in the Emergency Ward, I don't know if
it was an orderly or a doctor and a nurse but they
came up to see what was the matter, like, why we
were brought in and the nurse gave us some kind of
medicine to take to make us sick from the alcohol
we were drinking.

Q Were you made sick?

A Yes, I was.

Q Was Cadieux made sick?

A Well, I can't say for sure, like, when they first
offered it to us we refused and then me and Cadieux
were led into a room of some kind and there's two
police officers and a guard in there with us and
then Mr. Merriam came in and he told -- well, two
undo us, separately, you know, so we could be put
into separate rooms.

Q And that is what happened?

A Yes, and then they unhandcuffed us and I was left in

that room and Cadieux went to another room.

Q And you were given this drug to make you sick?

A Yes.

Q How long were you at the hospital after that?

A I would say we were in the hospital approximately forty minutes at the most.

Q And then you were taken back, I take it?

A Yes.

Q In a police van?

A Yes.

Q How many policemen were in the van?

A There was two in the van.

Q And were you all handcuffed?

A Yes, we were.

Q Were you handcuffed together or separately at this time?

A Separately.

Q Were your hands in front of you or behind you?

A Behind.

Q All right, tell us what happened on the way out, did anything happen on the way out?

A Well, we were put in the van and they started driving us downtown and we were all uptight about the events that happened and we continued on down to the gaol and we were just talking between us and yelling at the police officers that were driving.

Q What were you yelling at them?

A Well, you know, just what the idea was showing brutality just because we were drunk, everyone gets drunk but you shouldn't show brutality just because we are inmates and we were just uptight because of that.

Q Were any of the inmates injured that you observed when you were on your way back?

A Well, Bilsky had a sore head, he was complaining about his head being sore.

Q Did he advise you that he had a sore head from the brew or the gun butt or did he say?

A I could not really say which.

Q All right. There were no visible marks or injuries on any of the inmates?

A No.

Q You were not suffering any injuries from the scuffle, were you?

A No.

Q What happened when you got back to the Institute?

A Well, we drove into the property and as we were nearing the front door we seen a bunch of police officers and a bunch of guards.

THE COMMISSIONER: Would you find out from this witness if it was the front door or the reception area?

Q MR. PEACOCK: Can you tell us about that?

A It was the front door of the gaol.

Q And there were police officers and guards waiting

outside?

A Yes, there was.

Q Are you able to tell us how many police officers or guards were there?

A Not offhand, I didn't stop to count them but there was quite a few, I would say approximately eighteen to twenty.

Q And what happened when the truck stopped?

A Well, we were sort of -- well, I don't know how to put it, you see all of these people -- we knew we were in trouble, you know, with all of these officers out here so Cadieux got out of the truck first and I never seen him after that and then Bilsky got out of the truck and I never seen him -- well, I seen him after but not for a period of three or four minutes.

Then just as I was stepping out of the truck Mr. Williams, that's one of the guards at the Institute, grabbed me by the back of the hair and Mr. Cater came up and gave me a jab in the ribs and when I went down I got one across the back of my neck.

Q All right, Williams was the fellow that grabbed you by the hair?

A Yes.

Q And then Mr. Cater came up?

A Yes.

Q Did he strike you?

A Right here, in the ribs.

Q With what?

A I think it was a flashlight.

Q Did he say anything to you when he struck you?

A No. Well, I wasn't worried about the conversation or anything I was just worried about myself.

Q Were you saying anything as you were getting out of the truck?

A No.

Q All right, now, when you were struck in the stomach did you go down?

A Well, I bent over because it sort of knocked the wind out of me and then when I bent over, I don't know who did it, but someone struck me on the base of the neck.

Q Do you know what you were struck with?

A I can't say because I didn't see.

Q Can you tell us what it felt like?

A No.

Q You were just struck?

A Yes.

Q Did that knock you to the ground?

A No, because I had the guards grab me by the back of the hair at the same time.

Q He was holding you up by your hair?

A Yes.

Q All right, what happened then?

A Well, then as this was going on, just as I got struck on the back of the neck I looked up and I seen Poole get out and two of the guards grabbed him and then someone gave him a punch in the face and then at this point I was dragged off.

Q Did you see who punched him in the face?

A No, I couldn't, well, after I got struck in the neck and in the ribs everything was sort of hazy.

THE COMMISSIONER: Could you tell us if it was a guard or a city policeman?

A Well, two guards grabbed him, I know that. I seen someone hit him but I couldn't place if it was a police officer or a guard.

Q MR. PEACOCK: Did you see the fellow that struck Poole have anything in his hand when he struck him?

A No, I couldn't say.

Q All right. Now, you didn't seen Poole again, I take it, you were taken back into the Institute?

A Yes, I was.

Q Do you know who the guards were that were taking you into the Institute?

A Williams still had me by the back of my hair and then, well, I was sort of stunned and I was grabbed by the arm and then I was led into the gaol because all of this happened just outside of the door, the

front door and as I was going in the gaol I seen Bilsky laying on the floor with a dog a few feet away from him with some guys dragging him by the back of his hair across the floor.

Q Was the dog in the Institute?

A Yes, it was.

Q Did you notice the dog before you got out of the van?

A Yes, I did.

Q How many were there?

A Well, I seen two. I'm pretty sure there were two.

Q All right, now, who had you by the arm on the way into the Institute?

A I can't say for sure because I wasn't really paying attention.

Q Did they take you directly to the segregation area?

A Well, I was about half way down or a quarter of the way down from the segregation stairs and Mr. Merriam yelled to whoever was taking me down there that I had claustrophobia and I was going to the cell block.

Q So you went to the cell block?

A Yes.

Q Did you receive any hits or any other force on your way from there to the cell block?

A No, not after I got out of the truck.

Q And you went to the cell block that night?

A Yes, I did.

Q Bilsky, Cadieux or Poole didn't come to the cell block?

A No.

Q That is all you recall of the incident?

A Yes, it is.

MR. PEACOCK: Would you answer other counsel, please.

CROSS-EXAMINATION BY MR. WILKINS:

Q Mr. Gray, am I correct in saying that you and Mr. Cadieux and Mr. Bilsky and Mr. Poole were in the same cell drinking that evening, together, is that correct?

A Yes.

Q And what would be the total amount of brew that you had?

A Myself I had about a bowl and a half.

Q No, you had a container full, did you not? Not yourself, I am speaking collectively, the four of you?

THE COMMISSIONER: What was the brew in?

A Well, it was brewed -- you see, the gaol gets their milk in boxes with plastic bags and it was brewed in that and they were pouring that into silver gallon pitchers.

Q MR. WILKINS: What would be the total amount of brew that you would have?"

A Well, I can't answer that because they were drinking before I even went into the cell.

Q The other three were?

A Yes, and I went up to the cell and they said, "Come on in for a drink", so I went in.

Q And it's your evidence, sir, is it Mr. Gray, that you only had two cups?

THE COMMISSIONER: He said a bowl and a half, am I correct, witness?

A Yes.

Q MR. WILKINS: And what about the others, did they have about the same amount of drink as you or less?

A Well, I cannot answer that because they were drinking before I went in and then I drank for a while, like, just talking and that and then I left, I left the cell to play cards with another guy because I didn't like the taste of the brew.

Q And the others stayed there and were still drinking?

A Yes.

Q Now, Mr. Merriam stated that at some time that he said that the brew might be poisonous, is that correct?

A Yes.

Q He said that to you, did he?

A Yes.

Q Did he say what he figured might be in it?

A Well, he didn't say anything that could be in it he just said it could be poisonous.

Q When he first suggested that you go to the hospital, the four of you go to the hospital did you think that was a very good idea?

A Well, I didn't want to go because there was nothing the matter with me so he said "You are going to the hospital" and I said: "I don't want to go to the hospital".

He says then: "Stay here if you want". Then, you know, after being in gaol for a few months I thought it was a good idea to go for a ride so I said: "Okay, I'll go".

Q Now, you were handcuffed to Cadieux?

A Yes.

Q And in your opinion was Mr. Cadieux fairly drunk?

A Fairly drunk.

Q He was having trouble walking, I take it?

A Well, he was staggering.

Q Was his speech slurred?

A I guess you can say that.

Q And was Mr. Poole in a worst or the same condition or a better condition than Mr. Cadieux?

A Well, I would say they were about the same.

Q What about Mr. Bilsky?

A Well, I would say he was drunker.

Q So you were by far in the best shape, physically?

A Yes.

Q Now, what exactly was said, Mr. Gray, with regard to

the possibility of an escape when you were in the van on the way to the hospital?

A Well, we got in the van and it came out, like, they sent us down with just three guards and, well, like, well, we just said: "Look at this, they are sending us with three guards, if we wanted to escape there would be no problem because we could take them".

Q You said this in the presence of the guards?

A Yes.

Q And how many guards were in the actual part of the truck you and the other three were?

A One.

Q Just the one?

A Yes.

Q And the other two guards were in the front part of the vehicle?

A Yes.

Q And that is divided up from the back?

A With a wire mesh.

Q But they could hear you in the front?

A Yes.

Q Now, when you arrived at the hospital, Mr. Gray, were you felling a little sick at that time?

A No, I wasn't feeling sick then until I got that medicine.

Q So you had no ill effects whatsoever when you were given the medicine or a drug to make you sick by

the hospital staff?

A Right.

Q Did they ask you to drink that?

A Well, they told us if we drank it we would bring anything out just in case there was poison in it, they didn't force it on us.

Q Why did you drink it?

A Well, if someone told me there could be poison, you know, I would rather drink it than die.

Q So in your mind at least there was a possibility in your mind that there could be something wrong with that brew?

A Well, yes.

Q You were convinced that perhaps there might be poison in it?

A Well, if you mix yeast with any kind of liquid and if you leave it too long it could have poison of some kind.

Q So you had some concern about this?

A Yes.

Q You saw Mr. Poole get out of the van by the time you got back to the Institute?

A Yes.

Q And there were two guards that assisted him or however you want to put it out of the van?

A Well, they never assisted him out of the van, he got out of the van himself.

Q He stepped out of the van himself?

A Yes.

Q Then what happened?

A He got grabbed by each arm.

Q One on each side, a guard on each side?

A Yes.

Q And that was the last you saw of Mr. Poole?

A Well, I seen someone give him a punch in the face but I can't say exactly who.

Q Did he fall down?

A No, he didn't.

Q You never saw Mr. Poole fall down or anything?

A No.

Q Where was the dog at this stage?

A Well, when I got out of the van I seen one dog and then when I went into the Institution I saw another one unless there was only one dog and they moved him or if there was two dogs I can't say for sure.

Q Well, when you saw the dog when you got out of the van where was it in relation to the van?

A It was right outside of the door.

Q Did you see that dog attack anybody?

A No.

MR. WILKINS: I have nothing further,
thank you.

CROSS-EXAMINATION BY MR. MACDONALD:

Q Did you say that a guard by the name of Williams grabbed you by the hair?

A Yes.

Q Do you have any idea why he would have pulled your hair?

A Well, they were all uptight on what was going on.

Q Were your hands behind your back at this time?

A Yes, they were.

Q Had you been told to move and refused to move?

A No, just as I was stepping out, I was just by the door and just as I was taking a step out down on- to the pavement he grabbed me by the back of my hair.

Q Did you say you were struck in the ribs?

A Yes.

Q What were you struck with?

A I think it was a flashlight.

Q Who struck you?

A Mr. Cater.

Q Did you see a flashlight in Mr. Cater's hands at any time?

A Well, I know there was something in his hand but that's what I think it was, I can't say for sure.

Q Did you see what Poole got hit with?

A With a fist.

Q How many guards and/or policemen did you say were outside of the van when you got there?

A Eighteen to twenty.

Q Were you people afraid when you arrived back at the Institute?

A Yes, we were.

Q Did anybody try to break loose and get away after you got out of the van, after you arrived back at the Institution?

A Not that I seen.

Q Did you?

A No.

Q Where was it exactly that you saw one of the fellows lying on the floor?

A Well, in the gaol when you walk in and then there is a couple of stairs and then there is a sort of a flat part of floor and it was right there.

THE COMMISSIONER: In front of the door, would that be in the corridor?

A It's just up the steps and the doors.

THE COMMISSIONER: It was in front of those doors, was it?

A Yes.

Q MR. MACDONALD: That was Bilsky, was it?

A Yes.

Q Was he being dragged along the floor?

A Yes, by the back of the hair.

Q Was he on his back or on his stomach?

A Well, on his side, more on his stomach.

Q Do you know who was dragging him?

A Well, I was not really -- I seen it happen but I wasn't really -- you know, I was more worried about myself.

Q Where exactly did you go after that?

A Well, I was brought in the gaol and just started to be taken down into the segregation cells and then --

Q Did they stop at the guard room with you?

A Yeah, they stopped for a minute.

Q Were you ever placed on charge in the Institution as a result of this?

A Yes, I was.

Q What was the charge?

A Drinking intoxicants in the Institution.

Q Was that the only thing that you were charged with in the Institutjon?

A Yes.

MR. MACDONALD: Thank you.

THE COMMISSIONER: Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q Who made this brew?

A THE COMMISSIONER: Now just a moment Mr. Meurin.
If you don't want to name the people I am not going to force you.

A Well, I can't say for sure who really made it.

Q MR. MEURIN: Were you present when it was being made?

A No.

Q You weren't?

A No.

Q You were a cleaner at this time?

A Yes, I was.

Q You had access to Mint spray?

A No, I never.

Q You never did?

A No.

Q Do you know what Mint spray was?

A It must be a deoderant, I don't know.

Q Are you saying you don't know?

A No.

Q The Court Reporter can't take down a nod of your head.

A No, I don't know what it was.

Q You never heard anybody say at any time that night that there was Mint spray in the brew?

A Not that night, I heard that afterwards.

Q From another inmate?

A No, from Mr. Merriam.

Q I take it that on the way down the conversation directed towards the guard or guards was pretty abusive and pretty foul?

A It wasn't directed right to the guards, it was more amongst ourselves.

Q In other words you were talking theoretically?

A Yes.

Q But they could still hear, couldn't they?

A Yes, they could.

THE COMMISSIONER: I am not clear on this point, Mr. Meurin. Were some of the guards in the back of the truck with you?

A Yes, there was one.

THE COMMISSIONER: One in the back of the truck and the other two were in the cab?

A Yes.

THE COMMISSIONER: A total of three guards?

A Yes, that I know of.

THE COMMISSIONER: A total of three?

A Yes.

THE COMMISSIONER: Thank you.

Q MR. MEURIN: Now, wasn't there a lot of foul language used?

A Yes, there was.

Q And at the hospital wasn't there foul language used?

A It was used in a protective way for us.

Q In a protective way?

A For our safety.

Q Did you swear that you were going to be protected?

A Well, you know, in the predicament we were in with police officers you would rather use foul language rather than your fist or boots.

Q I see. You would have preferred to use fists or

boots but you didn't think that you would quite manage that, come out unscarred yourself?

A Well, whenever I use fists or boots when I've got the winning advantage and when there is a lot of police and officers I don't have too much.

THE COMMISSIONER: You appreciate his canter.

Q MR. MEURIN: Now, who was the first one out of the van?

A Where, at the gaol or the hospital?

Q At the hospital?

A I can't rightly say who was. I was not really paying attention at that point.

Q Were you?

A Well, if I was first it would be me and Cadieux, we were handcuffed together but I don't know if we were or not. I was not expecting anything, you know, we were just going to the hospital and I wasn't watching to see who was out first.

Q Well, when you arrived at the hospital you all would have been sitting down, wouldn't you?

A Yes.

Q And somebody would have to stand up and go out of the van first, wouldn't they?

A Yes, but I wasn't paying attention.

Q And you wouldn't even be looking out the door to see which way you were going and to see which way the others were going?

A There's only one door and you know where you're going.

Q Well, you are not going out with your head turned backwards, are you?

A Well, when you leave any car door you know which way you are getting out and you are not looking to see who else is getting out.

Q Didn't you see something occur when the first inmate got out?

A The first thing I saw when I got out of the truck, I looked up and there was a police officer using the butt of his gun on Bilsky.

Q No, just answer my question. When the first inmate left the van didn't something happen then that you saw?

THE COMMISSIONER: Is this at the hospital?

Q MR. MEURIN: Yes, at the hospital?

A I never noticed anything because I wasn't expecting anything.

Q Whether or not you were expecting anything did you see anything?

A No, I didn't.

Q You didn't see any inmate strike a city police officer?

A No, I didn't.

Q Are you saying that you never felt sick until they gave you this medicine to make you throw up?

A That's right.

Q Now, were you mouthing off when you returned to the Institute as well, from the hospital?

A Yes, we were.

Q So the foul language and whatnot was still continuing?

A Yes.

Q Now, I take it, sir, that you decided not to do anything and cool it when you got out of the van and saw the dogs, is that correct?

A Well, I didn't want to do anything when I seen all those people.

Q Now, you said you thought you were struck with a flashlight?

A I think it was a flashlight.

Q You are not sure?

A No.

Q It could have been a hand or it could have been an elbow?

A I seen something in his hand but I can't distinguish what it was.

Q Well, let me put it this way. Are you positive that you were struck with an object other than a person's fist or hand or elbow or what have you?

A Yes.

Q There was definitely something in his hand?

A Yes.

Q But you can't say what that thing was?

A Yes.

Q Sir, did you ever make a statement to Inspector Roberts?

A Yes, I did.

Q Sir, at this point I am not certain whether or not Inspector Roberts should be excluded, there is a statement which I have available but it's unsigned.

THE COMMISSIONER: Let's be on the side of caution and exclude the Chief Inspector.

Q MR. MEURIN: Now, sir, I will put two questions to you, number one, did you ever make a statement to Inspector Roberts to the effect that you were a little bit under the weather?

A I gave him a statement because he asked for one, he asked "Were you drinking?" you know, and "What happened on that night".

Q Okay. Are you denying that you told him that you were under the weather?

A He asked me if I got off on the brew and I said: "Yeah, enough to feel a slight buzz".

Q I'm sorry, I missed that last phrase?

A To feel a buzz.

Q A buzz?

A Well, yeah. I don't have a word for it.

THE COMMISSIONER: If you did feel the effect of it?

A Yes.

THE COMMISSIONER: You had a glow-on, would that be better?

A Yeah.

Q MR. MEURIN: Now, did you ever tell Inspector Roberts that you got an elbow in the chest?

A I told him I got hit in the chest. I don't know if it was an elbow or not. I told him I got hit in the chest.

Q Isn't that what you are speaking of when you referred to Cater?

A Yes.

Q You don't know whether you told him -- well, just tell me what you told him?

A That was two and a half months ago so how can I word it word for word.

Q Well, I am not expecting you to do it word for word but I think it is quite important to distinguish whether we are talking about an elbow or what?

A I told him I got grabbed by the back of the hair and I was struck in the chest and I don't know what I told him I got struck with. I know I got struck in the chest.

Q But today you are saying it was a flashlight, you think, but definitely an object in Cater's hand and are you saying that you told him that you don't know what it was?

A I didn't tell you exactly what it was either.

Q Well, you said it was definitely an object in Cater's hand when you were struck in the chest but you couldn't tell what that object was, in other words, I take it it could be a stick or it could be a flashlight or it could be a billy club or some kind of a club but it was definitely an object, is that right?

A Right.

Q Now, I am saying to you did you tell Inspector Roberts when you were struck in the chest that it was an elbow?

A I don't know if I did or not. I told him I got struck in the chest but I don't know what I told him with what.

Q I take it when you were called to the guard room on the first occasion when you came out of the cell block that's when Merriam told you that you were going to the hospital that the brew might be poison or something to that effect?

A No, the first occasion when we were called down he asked us if we were drinking.

Q And is that when you were told there might be something in the brew?

A No.

THE COMMISSIONER: I believe that's when he was told that you were going to the hole and you complained about claustrophobia?

A Yes.

THE COMMISSIONER: And you were put in the observation cell?

A In "A" block.

THE COMMISSIONER: And then you were told that the brew might be poisoned, while you were there?

A Yes.

THE COMMISSIONER: I think this was the way it happened.

Q MR. MEURIN: All right. Now, who else was there when you were told that there might be poison?

A On the second occasion.

Q Were all four there?

A All four.

Q All four of you were there?

A Yes.

Q And you were all within ear shot, in other words, you all heard it?

A Yes.

Q Now, you didn't like the taste, you mentioned earlier, is that correct?

A Yes.

Q Of the brew?

A Yes.

Q What was the taste, what was wrong that you didn't like the taste?

A It was just -- it had a real bitter taste.

Q It had a very bitter taste?

A Yes.

Q Have you had home brew like this before?

A No.

Q That was the first occasion that you had brew?

A Yes.

Q Was there some brew that was dumped in the toilet?

A Not that I know of. I only stayed for a short period of time and then I was playing cards.

Q So you didn't see it finished off, did you?

A No.

MR. MEURIN: I have no further questions.

RE-CROSS-EXAMINATION BY MR. MACDONALD:

Q When you got to the hospital and you came out, you were objecting, I take it, to the treatment that Bilsky was getting from one of the police officers?

A Yes, we were.

Q Did you and Cadieux get into a scuffle with the police?

A Well, we were grabbed by the arms and more or less forced into the hospital doors.

Q Did Cadieux jump a police officer and knock him to the ground?

A No, he didn't.

Q If he had jumped a police officer and knock him to the ground, I take it, you would have been on the

ground as well, is that correct?

A Yes.

Q Did you see Cadieux strike a police officer at any time?

A He couldn't have because I would have struck him too.

Q He had one free arm, I take it?

A No, because we were both cuffed, you know --

THE COMMISSIONER: Were there three handcuffs on you?

A Yes.

THE COMMISSIONER: Three sets of handcuffs were cuffed, they were all three involved in the handcuffing of you and Cadieux?

A Yes.

THE COMMISSIONER: Do you remember how you were handcuffed, right to left or left to right?

A Right.

THE COMMISSIONER: Your right to his left?

A He was handcuffed on this side.

THE COMMISSIONER: With his left hand?

A Yes.

Q MR. MACDONALD: For my own clarification I take it that there was a set of cuffs covering both of your wrists?

A Yes, there was.

THE COMMISSIONER: Two sets of cuffs and another

cuff was from his right hand to Cadieux's left.

Q MR. MACDONALD: So any blows that Cadieux would have landed you would have landed them as well, is that correct?

A Well, it's just that you can't give a blow. You don't have the coordination of the fists.

Q You had about a cup and a half of this brew, did you?

THE COMMISSIONER: A bowl and a half. Like in soup.

Q MR. MACDONALD: A bowl and a half?

THE COMMISSIONER: You might want to call it the waffle bowl.

Q MR. MACDONALD: It's a little early for that. How big was the bowl, was it like a bowl that you might eat cereal out of?

A Well, a ten ounce bowl, I guess.

Q You considered, sir, that after drinking the amount that you had to drink of this home brew were you impaired, you testified that you had a buzz or a glow-on?

A Yes.

Q And in answer to the next question, I take it, you said you could feel the effects of it?

A Yes.

Q You said you went to play cards?

A Yes.

Q Were you able to play cards?

A Yes, I was.

Q Were you walking and talking normally?

A Well, I can't say, you know.

Q Do you remember staggering?

A No, I don't remember staggering.

Q What about your words, do you recall whether or not they were slurred?

A Well, I was not really paying attention while I was talking, no one told me that I was slurring or staggering so I can't really say.

MR. MACDONALD: Fine, thank you.

RE-EXAMINATION BY MR. PEACOCK:

Q Sir, I have one more question. You have indicated that the first thing you saw at the hospital was this guard striking Bilsky with his gun or the police officer striking Bilsky with his gun?

A Yes.

Q Did any of the other police officers strike you or Cadieux or Poole?

A No, they never struck us.

Q So the only major confrontation was between Bilsky and a police officer?

A Yes.

Q What did the stuff that they gave you at the hospital taste like?

A Well, she gave us -- it was only a little cup and

then a shot of orange juice and so I just belted them down.

THE COMMISSIONER: It sounds like castor oil.

Q MR. PEACOCK: I take it it didn't taste as bad as the brew?

A No.

MR. PEACOCK: Those are all the questions that I have.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Gray, just to clear up a point for me. You say that the brew was in a gallon pitcher?

A That is what it was poured into from the plastic bag.

Q How many gallon pitchers did you see?

A I just seen the one.

Q From the gallon pitcher into the bag and into the cups and bowls?

A No, just from the pitcher, they told me they made it in a plastic bag.

Q It was already in the pitcher when you saw it?

A Yes.

Q Was the pitcher full?

A Not when I first went in, like, it only was a quarter full and then some was drank and they went and filled it up again.

Q Now, you had left the cell block when the liquor was being dispensed and were playing cards, were

you?

A I left the cell, I was playing about three cells down.

Q Why were you apprehended, do you know, for drinking in the cells?

A Well, because at the time the alcohol was being consumed it was only the cleaners that were out.

Q Oh, I see.

A And they called all the cleaners.

Q Just those that were out by the process of elimination?

A Yes.

Q Now, you said when you got back to the Institution and noticed all the people there you decided not to do anything, tell me, had you decided on creating a little static when you got back to the Institution if there hadn't been such a large reception?

A Well, not physical static, you know, words, you know, like it was just --

Q You intended to voice some objection to the treatment you received?

A Yes.

THE COMMISSIONER: Thank you, anything arising out of that?

RE-CROSS-EXAMINATION BY MR. WILKINS:

Q I have one question. At the hospital when the scuffle took place is it your evidence today that

you and Mr. Cadieux never got involved in the scuffle?

A That's right.

Q You never landed on the ground with the police officer at the hospital?

A Well, if I did I can't remember.

Q Well, is your memory that bad that night because of the effects of the alcohol that you don't recall?

A Well, I recall what happened but you are telling me that I did fall down and I am saying that I didn't.

Q No, I am not. I am asking you. Is it your evidence that you didn't fall on the ground?

A No, I didn't fall.

Q Would Mr. Cadieux with the police officers?

A No, we didn't fall down.

MR. WILKINS: Fine, thank you.

MR. PEACOCK: Thank you, sir.

THE COMMISSIONER: Thank you Mr. Gray.

(Witness retires)

MR. PEACOCK: Call Dennis Cadieux.

THE CLERK: Your full name, please.

THE WITNESS: Dennis William Cadieux.

THE CLERK: How do you spell your last name?

THE WITNESS: C-a-d-i-e-u-x.

DENNIS WILLIAM CADIEUX, having first been duly sworn, examined by Mr. Peacock, testified as follows:

- Q MR. PEACOCK: Were you an inmate at the Calgary Correctional Institute?
- A That's right.
- Q How long have you been there?
- A Approximately six and a half months.
- Q How long is your sentence?
- A One year.
- Q What are you there for?
- A Possession of stolen property.
- Q On July 17th, 1973 were you housed in the cell block?
- A Yes.
- Q And you and three other inmates, I take it, consumed some kind of a home brew that had been made out of tomato juice, had you?
- A That's right.
- Q As a result of this did you feel any effect of this home brew?
- A Well, yes.
- Q Were you what you would call drunk after having drunk it?
- A Fairly drunk.
- Q What about the other four, were they in about the same state as you were?
- A Yes.
- Q Were you able to tell which one of you was the drunkest after drinking this stuff?
- A No.

Q You were all feeling the effects of this, there is no doubt about that?

A Yes.

Q Were you subsequently called down to the guard room with respect to this stuff?

A Yes, I was.

Q And were the other three there at that time?

A I don't remember.

Q You remember that you were there?

A Yes.

Q Do you remember who you talked to when you got down there?

A Mr. Merriam.

Q What did he say to you?

A He asked me if I had been drinking.

Q What did you say?

A Yes.

Q Did he ask you what you were drinking?

A Yes, he did.

Q Did you tell him?

MR. PEACOCK: Let's adjourn for a few minutes.

(Hearing adjourns)

(Hearing resumes)

THE CLERK: You remember that you have been previously sworn?

A Yes.

Before we go any further,
Your Honour, I am facing criminal charges in this
case and I would like to have the Canada Evidence
Act.

THE COMMISSIONER: Mr. Cadieux, at the moment
you are asked a question and if you feel that the
answer of which might tend to incriminate you you
tell me that you object to answering that question
and I will then direct you to answer and then immediately
you have the protection of the Canada Evidence Act.

I cannot give it to you
and I can withhold it from you but if you decline
to answer a question on the ground that your answer
might tend to incriminate you then you are directed
to answer and your answer is automatically protected
by the Canada Evidence Act, do you understand me?

A Yes.

THE COMMISSIONER: So wait until the question
is put to you and if you decline to answer it because
it might tend to incriminate you then tell me that,
will you?

A Okay.

Q MR. PEACOCK: At any time one of these
questions is directed to you?

A Okay.

Q Now, I think you indicated that you were down in
the guard room with the other three inmates involved

and Mr. Merriam asked you if you were drinking and asked what you were drinking, did he put you on charge at that time?

A No, I don't believe so.

Q Did he send you off to the cells or to the hole?

A Yes.

Q Did he send Bilsky and Poole to the hole as well?

A Yes, he did.

Q What is the next thing that happened?

A Can I take the Canada Evidence Act?

THE COMMISSIONER: Do you decline to answer this question on the grounds that it might tend to incriminate you?

A Yes.

THE COMMISSIONER: I will direct you to answer and you have that protection.

A All right, after we were taken out of the hole --

THE COMMISSIONER: Mr. Macdonald?

MR. MACDONALD: I am just wondering if you might advise him that you have chosen to follow the course that he has asked for the protection and this will cover all his answers.

THE COMMISSIONER: I will take it that from hereon in the position I am taking is that you will decline to answer all further questions on the grounds that your answers might tend to incriminate you and I am directing you to answer all further questions

and you have the protection of the Act.

MR. MACDONALD: Thank you.

Q MR. PEACOCK: Yes, go on.

A After we were placed in the hole I think it was about an hour later the doors were opened up and the guards were standing outside telling us to get up that we were going to the hospital because apparently we had drank some poison and we left and went down to the guard room and I went down to the guard room in a wheelchair.

Q In a wheelchair?

A Yes.

Q Do you know why that was?

A Because I couldn't stand up.

Q Was that because of the stuff you drank?

A That's right.

THE COMMISSIONER: Mr. Peacock, would you inquire as to how much he had?

Q MR. PEACOCK: Yes, how much did you drink?

A Maybe a gallon and a half.

Q And this was out of a pitcher, was it a milk pitcher?

A Yes.

Q And by the time they told you that they were taking you to the hospital you were so under the influence that you couldn't walk?

A At that time, yes.

Q And they got you to the door in a wheelchair?

A Down to the guard room.

Q What happened then?

A Then we were taken and handcuffed and taken outside and put in the panel wagon and escorted to the Foothills Hospital.

Q Now, did you see Bilsky and Poole and Gray when you got to the guard room?

A Yes.

Q What kind of shape were they in?

A Well, Bilsky, Poole and I were in pretty bad shape. John Gray wasn't in that bad of a shape.

Q He had only dropped by for a drink and had not stayed too long?

A That's right.

Q All right, now, were you handcuffed in the guard room or were you handcuffed when you got to the door?

A We were handcuffed at the guard room.

Q I see. Were you all handcuffed individually or were you handcuffed with other inmates?

A Michael Bilsky was handcuffed alone and Gerry Poole was handcuffed alone and John Gray and I were handcuffed together.

Q How were you handcuffed?

A There was three sets of handcuffs, one on me like this and one on John Gray like this and a third set of handcuffs were placed here.

Q And then you were put into a van?

A That's right.

Q And you were escorted to the hospital?

A That's right.

Q Do you know any of the names of the guards that were in the van with you?

A I know there was a Mr. Andrews and a Mr. Morrow or Moron, I don't remember the other.

Q Was one of the guards placed in the back of the van with the four of you?

A I don't remember.

Q The reason you don't remember is because you --

A Because I didn't see if there was anybody behind I didn't see him.

Q What happened when you got to the hospital?

A Michael Bilsky got out of the van first and then John Gray and I followed behind him and then I imagine Gerry Poole and when John Gray and I stepped out of the van to my right I looked and I seen one officer striking Michael Bilsky over the head with a gun and John and I -- well, not so much John but myself I was swearing and cursing at the officer beside me, I don't remember exactly what I said but I just got a little uptight about it and he came up around behind me and grabbed me around the neck, like this, and another officer came in front of me and sprayed my face with mace

and then we were escorted into the hospital.

Q Now, were you sprayed directly with a sprayer?

A I didn't actually see what it was but I think it was mace.

Q It was mace, was it?

A Yes.

THE COMMISSIONER: As opposed to tear gas?

A Yes.

THE COMMISSIONER: You had both?

A Yes.

Q MR. PEACOCK: Did you see whether the person who sprayed you was a police officer or a guard?

A I can't be sure.

Q Now, did you when this other police officer grabbed you from behind were you struck at any time?

A I don't really remember but I don't think so.

Q Can you recall falling to the ground?

A No.

Q Was Gray still handcuffed to you at this time?

A Yes, he was.

Q And the two of you were then escorted into the hospital?

A That's right.

Q Did you see Bilsky again before you were put into a room in the hospital?

A Well, we were at that time all four of us came into

the hospital we were all in the one room and then they came in and undid the handcuffs and they put us each into separate rooms.

Q When you saw Bilsky in this room where all four of you were together did you observe if he was cut in any place?

A I don't remember, I don't think so.

Q You don't recall having seen any blood on him or anything like that?

A No.

Q Before you saw Bilsky being struck by this police officer did you see Bilsky strike any of the police officers?

A No, I didn't.

Q Did you or Gray strike anyone?

A No.

Q You didn't see Poole strike anyone?

A No, I didn't see Poole anyway.

Q He was behind you?

A Yes.

Q Now, after you were put into a separate room you were given something to make you sick?

A Yes.

Q And were you sick?

A Well, yes.

Q Did you feel better after you were sick?

A No, I felt worse.

Q Okay. Would you say that you were drunk as a result of consuming this stuff that night?

A Pardon me?

Q Would you say you were drunk as a result of having drunk this stuff that night?

A The brew?

Q Yes.

A Yes.

Q And you say you got sick but you felt worse?

A Yes.

Q How long did they keep you in the hospital after you were sick?

A I can't recall.

Q But you were ultimately placed in a van and taken back to the Institute?

A That's right.

Q Was it a police van?

A I don't know.

Q Do you recall on the way back from the hospital to the Institute making any comments to the guards. who were there or police officers that were there?

A Yes.

Q Were you all involved in the name-calling?

A I don't know.

Q You were?

A Yes.

Q What were you saying?

A I don't remember everything. I was swearing and cursing at them.

Q On the way down in the police van from the Institute to the hospital were you all having a conversation about the guards while you were on your way down?

A There was some talk but I can't really remember what was said.

Q Can you recall if any of the four of you mentioned that if the handcuffs were off you could take the guards and escape?

A I heard something to that effect.

Q You don't know who said it, though?

A No.

Q All right, when you got back to the Institute can you tell us what happened?

A Well, when we came back to the Institution Michael Bilsky and myself, that I know of, were handcuffed with our hands behind our backs and Michael Bilsky got out of the van first and as he was getting out of the van one of the police officers walked up and grabbed him by the hair and pulled him out of the truck and he fell onto the ground in front of the truck and I come out of the truck second and I got knocked down on the ground and then I got back up and I walked to the front of the doors to the Institute --

THE COMMISSIONER: Were these police officers

or guards, Mr. Peacock?

Q MR. PEACOCK: Yes, I was just going to ask that. When you say you saw police officers strike Bilsky?

A Yes.

Q Or grabbed him by the hair?

A Yes.

Q Was it a police officer or a guard?

A A police officer.

Q And he grabbed him by the hair and pulled him?

A That's right.

Q When you came out you say you got knocked down, do you know how you were knocked down?

A No, I don't.

Q You just went over?

A That's right.

Q Could you have stumbled or fallen yourself or did you feel somebody push you or what do you recall?

A I don't really remember.

Q But you got back up again?

A Yes.

Q What happened then?

A And then I started walking towards the doors of the Institution and I either stumbled or got pushed, I can't remember, but I leaned forward like this and I got my balance again and I walked through the corridor towards the guard room and as soon as I

got to the guard room or to the segregation doors which is just across from the guard room, the door was open and I was being escorted downstairs by two guards, gaol guards.

I made the first flight of stairs okay and on the second flight of stairs I just seemed to go down, like, I got dragged down there and at the bottom of those stairs I was on the ground and I just started getting back up to regain my balance and I was knocked down by somebody and then I was dragged into a cell and put in the cell with the handcuffs on me.

Q Let me just go back a little bit. Did you see Poole come out of the van at all?

A No.

Q Did you see Gray come out of the van?

A No.

Q They were behind you, were they?

A Yes.

Q Did you see Gray or Poole or Bilsky before you got to the guard room and the door to the segregation cells?

A No.

Q All right. So that aside from the fact that you were stumbling you got through these doors of the segregation cells and got halfway down the stairs and you say you fell down the rest of the stairs?

A That is correct.

Q Your hands were still cuffed behind your back?

A Yes.

Q Do you know who the two guards were that were escorting you down there?

A No, I don't.

Q You say that you tried to get up from the bottom of the stairs and you were knocked down again?

A That's right.

Q Do you recall who knocked you down?

A A third party, I don't know who it was.

Q You cannot say who it was?

A No.

Q You were then placed in a cell with your handcuffs still on?

A That is correct.

Q Did you then go to sleep?

A No, I just sat there.

Q Do you remember when Poole came in?

A Poole was on the men's side of segregation so I didn't see him come in.

Q Did you see Bilsky come in?

A No, I didn't.

Q Did you have any other communication with any of the guards that night?

A None other than when they came to take the handcuffs off.

Q Do you know how long that was?

A No, I can't tell.

Q When they took the handcuffs off was there any problem then?

A No.

Q Were you hit or anything?

A No.

Q Now, after the following day did you observe if you had any cuts on your body at all?

A I had a couple on my head.

Q And where were they?

A On my head.

Q On the back or on your face or where?

A On the back part of my head.

Q I see. Do you recall when you received those cuts?

A No, I don't.

Q Do you recall being struck on the head by any of the guards?

A No.

MR. PEACOCK: Those are all the questions that I have, would you please answer other counsel.

CROSS-EXAMINATION BY MR. WILKINS:

Q Mr. Cadieux, do you recall at any time at the hospital, just after you arrived in the van, do you recall being knocked to the pavement or rolling around on the ground with Mr. Gray and yourself and a police officer?

A No, I don't.

Q Are you positive that that did not happen?

A Yes.

Q Your recollection is a little hazy in certain places?

A Some parts.

Q And a lot of the times you are not sure if you stumbled or were knocked down or fell down or tripped, you are not too sure on a number of these occasions, are you?

A Some of them.

Q Did you see any police dogs that evening?

A Yes.

Q Where did you see the police dogs?

A I seen one at the hospital inside the Emergency entrance and one when we came back when we were at the Institution.

Q Where was the one you saw at the Institution?

A It was near the truck, a little ways from the truck and one of the officers was holding him.

Q Officers were holding him?

A Yes.

Q Did you see any inside the Institution?

A No, I didn't.

MR. WILKINS: I have nothing further.

THE COMMISSIONER: Mr. Macdonald?

MR. MACDONALD: I have nothing, sir.

THE COMMISSIONER: Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q Sir, when you were taken out of the hole originally you were brought down to the guard room in a wheelchair?

A Yes.

Q Did you try to walk yourself before you were put in a wheelchair?

A I don't even remember coming up.

Q You don't remember?

A No.

Q Are you telling me that you don't remember being brought in a wheelchair or you don't remember trying to walk?

A I came awake one time and I was in a wheelchair and I was on my way to the guard room.

Q Would it be a fair statement to say that you were so drunk you couldn't walk?

A At that time, yes.

Q Okay. Now, were you sick between that time and when you got to the hospital?

A I wasn't, no.

Q You weren't?

A No.

Q So whatever you had drank you still had it in your stomach?

A I was sick while I was in the hole.

Q You got sick while you were in the hole?

A Yes.

Q But that was being sick before you were brought up on the wheelchair?

A That's right.

Q Now, how did you get from the guard room into the Institute van when you were being taken down to the hospital?

A I walked.

Q You walked?

A Yes.

Q And you walked while you were handcuffed to Gray?

A Yes, that's correct.

Q I take it that you would have been having difficulty walking then?

A A wee bit.

Q And presumably you were having difficulty walking when you got to the hospital and got out of the van?

A Well, I was more awake then so I wasn't that bad.

Q You were starting to come back?

A That's right.

Q But you were still having some difficulty in walking?

A I didn't have very far to walk so I don't know.

Q Well, the little distance that you had to walk did you have difficulty or didn't you?

A No.

Q What about when you got back to the Institute and

you went down the stairs you indicated that you, I believe, fell down the stairs, the last half of the stairs, is that correct?

A Yes.

Q Now, was this because you were having difficulty with your feet?

A I don't know.

Q Well, I would suggest to you that it was because you were having difficulty walking at that time, would you disagree with that?

A Well, that is your suggestion and not mine.

Q Well, do you disagree with it?

A I don't know.

Q When you fell down these stairs you weren't pushed or anything like that, you weren't struck?

A As far as I know but I can't remember.

Q You can't remember?

A I can't remember.

Q When you went down these stairs at that time you were still handcuffed with your hands behind your back?

A That's correct.

Q So when you fell you couldn't put your hands out in front of you to protect yourself?

A No.

Q And it's entirely possible that the bumps and cuts you got on your head you could have received them

at that time?

A That's right.

MR. MEURIN:

I have no further questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Cadieux, over what period of time did you consume this gallon and a half?

A I can't really be sure, maybe two hours.

Q You were drinking as long as anybody else?

A I would be longer than some of them.

Q Were you the first one to sample the brew?

A No, I wasn't.

Q From two to two and a half hours you drank this brew?

A About that.

Q And you consumed about three-quarters of a gallon per hour?

A Something like that.

THE COMMISSIONER: Thank you Mr. Cadieux.

(Witness retires)

MR. PEACOCK: Michael Bilsky, please.

THE CLERK: Your full name, please?

THE WITNESS: Michael Bilsky.

THE CLERK: How do you spell Michael?

THE WITNESS: M-i-c-h-a-e-l.

THE CLERK: And Bilsky?

THE WITNESS: B-i-l-s-k-y.

MICHAEL BILSKY, having first
been duly sworn, examined by Mr. Peacock, testified as follows:

A Your Honour, can I have protection by the Canada
Evidence Act?

THE COMMISSIONER: Yes, you will be protected
in this way Mr. Bilsky. The moment you are asked
a question your answer to which you think might in-
criminate you you object to answer it on that ground?

A Yes.

THE COMMISSIONER: And then I will direct you
to answer the question and you will be extended the
protection.

A Okay.

Q MR. PEACOCK: Mr. Bilsky, how old are you?

A 22.

Q And you are presently an inmate at the Calgary Cor-
rectional Institute?

A Yes, I am.

Q How long have you been there?

A Just about thirteen months, I think.

Q How long is your sentence?

A A year and six months consecutive.

Q What was the sentence for?

A Six months was for escaping and a year was for
willful damage.

Q And those are consecutive?

A Yes, I had some other charges too but they were

concurrent.

Q Now, July 17th, 1973 were you housed in the Institute in the cell block, is that right?

A Yes.

Q Were you a cleaner at that time?

A Yes, I was.

Q And on the night of July 17th you and three other inmates were consuming some kind of a home brew made from tomato juice, is that correct?

A Yes.

Q Now, can you tell us how much of it you drank?

A I don't know, at least half a gallon I would say.

Q And over what period of time were you drinking, do you know?

A I couldn't say for sure.

Q Did you subsequently realize that you were under the influence of this stuff?

A Do you mean, like, did I know that I was drunk?

Q Yes.

A Oh, yes, I knew I was getting drunk, yes.

Q And when you finished drinking this stuff were you drinking it in a cell which was occupied by the three of you?

A Yes, I was.

Q I take it that you quit drinking it after a while?

A I went to sleep.

Q When you went to sleep were you drunk?

A I passed out, I guess, I guess I must have been.

Q All right. What is the next thing you recall?

A Somebody hollering my name to go to the guard room.

Q Did you wake up?

A Yes, I did.

Q Did you go to the guard room?

A Yes.

Q Did you have any trouble walking on your way down?

A Well, I was a little unsteady, yes.

Q Did you feel at that time that you were drunk from this stuff?

A Yes, I did.

Q What happened when you got to the guard room?

A I went in front of Mr. Merriam and he asked me if I had been drinking and I said "No".

He said: "Yes, you have been", and I said: "No, I haven't".

He said: "You're going to the hole for being drunk", and that was it, I went to the hole.

Q So you were taken down to the hole?

A Yes.

Q What happened when you got down there?

A There was some guards after my partner Cadieux, I don't know what for but I told them to leave him alone and they told me to go into the cell and that

was about it.

Q Did you go back to sleep when you got back in the hole?

A Yes, I did.

Q What is the next thing you remember?

A The next thing I remember was getting out of the van at the Foothills.

Q Do you recall getting into the van?

A No, I don't.

Q Do you recall the ride down in the van?

A No, sir, I don't.

Q So the next thing you know is getting out of the van at the Foothills Hospital?

A Yes.

Q And you don't remember anything before that?

A No.

MR. MACDONALD: Before this witness goes any further I hope that he understands that if he wants the protection of the Canada Evidence Act that he has to refuse an answer, I'm not sure if he understands.

THE COMMISSIONER: We are getting close, Mr. Macdonald.

Q MR. PEACOCK: Perhaps I can make it easier. What happened when you got out of the van?

A I refuse to answer.

THE COMMISSIONER: On the grounds that it might

tend to incriminate you?

A Yes.

THE COMMISSIONER: I direct you to answer and you now have the protection of the Act.

A I tripped when I was coming out of the van and I ran into a policeman.

Q MR. PEACOCK: Where was the policeman?

A In front of me.

Q What did you run into him with?

A With my handcuffs.

Q They were in front of you, were they?

A Like this.

Q Do you know what part of your handcuffs ran into the policeman?

A In the middle, I imagine.

Q What part of the policeman did you run into?

A He said his nose.

Q Do you recall?

A No, I don't.

Q All right, what happened then?

A I don't know, the next thing I knew I was down on the ground and I was getting beat on the head with a gun.

Q Do you know who was beating you on the head with a gun?

A Just a policeman.

Q It was not a prison guard?

A No. They don't pack guns.

Q What is the next thing that you observed happening?

A Well, we went into the hospital and they gave us some stuff to make us sick.

Q Were you handcuffed alone when you came out of the van and realized where you were?

A Yes.

Q When you fell out of the van and struck this police officer the next thing you recall is being on the ground, is that correct?

A Yes.

Q And somebody was hitting you on the head?

A Yes.

Q With a gun?

A Yes.

Q Did you sustain any cuts as a result of this?

A A few bumps, that's about all.

Q You don't recall bleeding at all?

A I had a cut above the eye, I don't know, that's about all.

Q Do you recall when that was inflicted upon you?

A No, I don't.

Q All right, so you were led into the hospital, did anything unusual happen on your way into the hospital?

A There was some swearing and stuff.

Q Were you struck at all?

A I was packed or dragged in, I don't know which.

Q Were you on your feet?

A No, I wasn't.

Q Do you know who was striking you?

A I don't know, there was policemen and guards.

Q What were they dragging you by?

A They had me by the hair and one had me by the leg.
I don't know.

Q They were packing you in?

A Yes.

Q All right, you were subsequently given some substance
that made you sick, is that correct?

A Yes.

Q Did you feel better after that?

A No, I kept getting sicker.

Q I see. How long were you at the hospital?

A I don't know.

Q The next thing that happened, I take it, that you
recall of any significance was when they were taking
you back, is that correct?

A I don't understand that question.

Q Well, anything else happen at the hospital?

A No.

Q What is the next thing that did happen.

A Well, there was some hollering and screaming going
on in the van?

Q They put you all in a van?

A Yes.

Q Was it a police van or do you recall?

A Yes, I think it was a police van.

Q Were you handcuffed at that time?

A Yes, behind the back.

Q I see. Each of you was handcuffed separately, were you?

A I was but I don't know about the rest.

Q Now, there was some cussing and swearing going on in the van?

A Yes.

Q Did you take part in that?

A Not that I can recall because I was sick in the corner of the van.

Q You were still sick?

A Yes.

Q Do you recall anything other than the yelling and screaming and cussing and swearing on the way back to the Institute?

A No, I don't.

Q What happened when you got back to the Institute?

A Well, they opened the door and said "Come on out" and somebody hollered "Come and fuckin' get us".

Q Do you know who yelled that?

A No, I don't.

Q What happened next?

A Then I went to get out first, I don't know if it

was a policeman or a guard that grabbed me by the hair but he grabbed me by the hair and pulled me out and then the dog bit me.

Q There was a dog there, was there?

A Yes.

Q Where did he bite you?

A On the ass.

Q How many times?

A I don't know, I couldn't say.

Q Were you on your feet when the dog bit you?

A No, I wasn't.

Q When they pulled you out of the van did they pull you out by your hair?

A Yes.

Q Did you fall on the ground?

A Yes, I did.

Q And at that point the dog bit you?

A Yes.

Q What else happened that you can recall?

A Well, from there I tried to get up and started to get up and I don't know if I was hit or punched but everytime I tried to get up I would get pushed down and I just made it into the gaol, I guess I crawled and some guard got me by the hair or it could have been a policeman, I don't know.

Q You cannot identify who it was?

A No, I can't.

Q Was this inside the front door?

A Yes. They got me down to segregation.

Q Were you lying down when you were being taken to segregation?

A Yes, I was being dragged.

Q And you were being dragged by what?

A My hair.

Q And did they drag you to the door leading to the stairs of segregation?

A Yes, they did.

THE COMMISSIONER: Did they give you a chance to walk?

A No, they didn't.

MR. PEACOCK: I'm sorry, I didn't hear the question?

THE COMMISSIONER: Did you get a chance to walk?

MR. PEACOCK: Thank you. Was there more than one guard when you were being dragged down the hall?

A There were guards all over the place.

Q But was there only one guard dragging you?

A As far as I know there was, yes.

Q What happened when you got to the top of the stairs and to the door of the segregation, was it open?

A They dragged me down the stairs by my hair.

Q You were still not on your feet?

A No, I wasn't.

Q Were you saying anything to them?

A No, I wasn't.

Q Were they saying anything to you?

A Not that I can recall, no.

Q When you got down to the bottom of the stairs what happened?

A They dragged me and threw me in the cell. I don't know who it was but somebody started kicking me in the ribs.

Q This is when you got into the cell?

A Yes.

Q Were you still handcuffed?

A Yes, I was.

Q And you don't know who was kicking you in the ribs?

A No, I don't. I don't know but they kicked me ten or fifteen times and then left and I was down there with cuffs on for, I don't know, maybe an hour before they come and took them off.

Q Do you recall who took them off?

A John Schlegel was there, I know that.

Q Were you struck or pushed at any time when they were taking the cuffs off?

A No, I wasn't.

Q You don't know who the guard was who kicked you when you went into the cell?

A No.

Q Did you see Cadieux or Poole in the cell block when you got down there?

A No, I didn't.

Q Did you see either of them being brought down there?

A No, I didn't.

Q Did you suffer any bruises or other injuries that were visible the next day?

A I had part of a black eye.

Q What about bruises in your rib area?

A I was bruised up but you couldn't notice them, not really that much.

Q Did you seek any medical treatment?

A I went up to see about these cuts.

Q Which cuts?

A The dog bites.

Q Oh, the dog bites?

A Yes.

Q Did they bandage them or anything?

A No.

Q Did they give you a shot or anything?

A No, the doctor said that they were healing good and just left them.

Q Did you bleed from that dog bite?

A Yes, I did.

MR. PEACOCK: I think those are all of the questions that I have, would you answer other counsel, please.

CROSS-EXAMINATION BY MR. WILKINS:

Q Mr. Bilsky, you drank half a gallon in your estimation of this brew?

A I would say around it, yes.

Q How much did Mr. Poole drink?

A I don't know.

Q Did he drink more or less than you?

A I couldn't say. I'm not even too sure if I drank half a gallon, I could have drank more.

Q Is it fair to say that you and Mr. Poole and Mr. Cadieux drank about the same amount?

A I don't know, it was in a big plastic container and it's hard to say how much anyone drank.

Q Your recollection of the whole incident is pretty hazy?

A Yes.

Q In fact you passed out at one stage?

A Yes.

Q And is it your evidence Mr. Bilsky, that you recall nothing from leaving the gaol until you arrived at the hospital?

A No, I don't.

Q Do you recall taking part in any discussion about overpowering the guards and escaping?

A No, I don't.

Q Do you recall at any time during that evening?

A No.

Q Did you hear anybody else talking about that?

A I don't know. Well, there was some talk going on but I couldn't make anything out of it.

Q But there was some talk about overpowering the guards?

A I don't know if it was overpowering the guards.

Q What was it?

A I don't know.

THE COMMISSIONER: I am having some difficulty with the answers in view of the fact that he recalls nothing from the time they left the guard room.

MR. WILKINS: Yes, and then he recalls some conversations, sir.

Where do you recall hearing some conversation Mr. Bilsky?

A On the way down, I guess.

Q Well, what was that conversation, what did you hear?

A I don't know, it was something about -- I don't know, the guards or what, I just can't remember.

Q Well, your memory seems to be coming back in spurts, you now recall something, something about guards now, what is it Mr. Bilsky?

A I don't know, like I say, there was a lot of confusion.

Q Well, there wasn't that much confusion in the truck from the gaol to the hospital, was there?

A I don't know, I was drunk and I can't remember too much.

Q Well, do you not recall very much or do you not recall anything at all, what is it Mr. Bilsky, let's have it one way or the other.

A I recall some of it, yes.

Q Well, tell us what you recall?

A I did, I told you I don't recall nothing until we got to the van.

Q You just said that you recall some conversation?

A Yes, but what it was I don't know.

Q I see. Was it about the weather?

A It could have been for all I know.

Q I see. It was also about the guards, you recall that?

A Yes, I do.

Q Was it about overpowering the guards?

A I don't know.

Q Was it about escaping from the guards?

A There was no escape, I know that.

Q Well, there might not have been but was there discussion about escaping from the guards?

A No.

Q After you exited from the van do you recall at any time seeing Mr. Cadieux and Mr. Gray being involved in a scuffle?

A No, I don't.

Q Do you recall them ever being on the ground with a police officer?

A No.

Q What is your recollection of them getting out of the van?

A Like, I said, I don't know, because I got out first.

Q And you were involved in a fight?

A Well, I had enough of my own troubles, I guess.

Q So it is your evidence you didn't see Mr. Gray or Mr. Cadieux or Mr. Poole exit from the van?

A No, I didn't.

Q You didn't see them at all inside the hospital?

A No.

Q Were you a little concerned about your health Mr. Bilsky, when you arrived at the hospital?

A About my what?

Q Your health?

A How do you mean?

THE COMMISSIONER: Your general wellbeing?

Q MR. WILKINS: Did you think that you were sick?

A I didn't think so, no. I was sick, sure, but I wasn't dying or nothing.

Q You are positive of that?

A Yes, I was.

Q Well, when they offered you this drug at the hospital did you refuse to take it?

A No, I took it because I got sick.

Q Well, why did you decide to take it, it wasn't forced

on you, was it?

A They told me to take it, yes.

Q Why did you decide to take it?

A Because I was told to.

Q Do you do everything that you are told to do?

A When I'm doing time, yes.

Q I see. How long have you been in the Correction
Institute, Mr. Bilsky?

A I think I was sentenced on November 8th, since then.

Q November 8th of 1972?

A Yes.

Q Some thirteen months?

A I said that I wasn't sure.

Q You would know most of the Correctional Officers, do
you, by name?

A No, I don't.

Q You know some of them?

A Yes, some of them I do.

Q And yet that evening in question you don't recall
who dragged you down the stairs and you don't recall
who kicked you in the ribs and you don't recall
who pulled you out of the van and you are not even
sure if it was policemen or guards, is that correct?

A Yes.

Q Why is that Mr. Bilsky?

A Well, there was so many of them there for one thing,

cluttering around.

Q Is the other reason because you were so drunk that you don't remember?

A When you are handcuffed and your face is down you can't see too much.

Q Mr. Bilsky, your face wasn't in the ground all the time?

A Oh, it wasn't but you can't turn around and see too much, can you?

Q You never saw not even one person that you can identify?

A No, I didn't.

Q Not one single person that you can identify?

A No.

Q Because there was so many people around. When you arrived at the Institute Mr. Bilsky, did you have occasion to have a look around and see how many people were there?

A Well, I was on my knees I got a glance, yes.

Q So in fact you did see how many people were around?

A Yes.

Q How many people were around?

A I don't know, I couldn't count them all.

Q You mean you can't count that high?

MR. MACDONALD: I don't think that is necessary.

MR. WILKINS: Well, how many were there?

A Like I say as far as I know it was close to twelve

o'clock and there is a guard change, that is the way I understood it and I don't know there was just so many different faces running around.

Q I am talking about numbers, I am not concerned about faces, can you give us a round number as to how many people were around there?

A No, I can't.

Q Was it over a hundred?

A No, I don't think there would be that many.

Q Would it be under twenty?

A Is hard to say, I'm not sure.

MR. WILKINS: Thank you.

CROSS-EXAMINATION BY MR. MACDONALD:

Q Tell me again what happened when you got to the hospital just as you were getting out of the van?

A I tripped and I ran into a policeman.

Q Did you at any time thereafter attempt to strike the policeman?

A Not that I recall.

Q I take it that you were in a scuffle where you wound up on the ground, is that correct?

A Yes.

Q You were pretty occupied with your dealings with that particular police officer, I take it?

A Yes.

Q And you didn't see what the other inmates were doing?

A No, I didn't.

Q Now, were you the first one out?

A Yes.

Q When you got back to the Institution?

A Yes.

Q And how did you get out of the van?

A I went to get out and I got grabbed by the hair and pulled out.

Q Were you capable of walking into the Institution from the van?

A Yes, I think I was.

Q Did you get a chance to show this?

A No, I never.

THE COMMISSIONER: Mr. Macdonald, you are talking about the Correction Institute as opposed at the hospital?

Q MR. MACDONALD: That is correct, sir. Were you carried part of the way in?

A Into the Institution?

Q Yes.

A I don't know. Every time I tried to get up I know I was knocked down, I must have crawled in myself, I don't know.

Q Just inside the front door of the Institution you recall whether you were attempting to get up when you were grabbed by the hair?

A I tried to get up two or three times.

Q Do I take it that most of the things that happened

to you were in the nature of being shoved and being pushed, is that right?

A Yes.

Q Were you kicked at any time?

A I think I got a few boots here and there.

Q Did you attempt to hit anybody at that time?

A No, I never, I couldn't.

Q How many people were involved in this pushing and shoving?

A I can't say that either.

Q The next day where the dog had bitten you, was it bleeding or what was it like?

A Well, just a scar started forming, a scab and I went to see a doctor and he more or less said there was nothing wrong to go back to segregation.

Q No shots were ever given to you?

A No.

Q You feel that it was clear that you had been bitten by an animal?

A Yes.

MR. MACDONALD: Thank you.

THE COMMISSIONER: Mr. Meurin?

CROSS-EXAMINATION BY MR. MEURIN:

Q Did you lose any hair over this incident?

A I don't know.

Q Well, the next day did any hair fall out?

A When I combed my hair some come out.

Q But not very much?

A No.

Q Any more than normally comes out when you comb your hair?

A Oh, yes, a little more than that.

Q How much more?

A I don't know, maybe a couple of combs full or a comb and a half.

Q And that's all?

A That's about all.

Q Nothing after that in terms of hair falling out?

A No.

Q Now, sir, I take it you are fairly familiar with the Institute having been there for about thirteen months?

A Yes.

Q Would you agree with me when I say that the distance from the front door of the Institution to the guard room is a distance of probably, in the neighbourhood of, say, 150 to 200 feet, at least?

A I couldn't say that for sure because I don't know, I don't get around to the front too much.

Q Okay. From where the security area starts, from the guard room, in other words when you go to the guard room and then go west you run into the security gates, don't you?

A Yes.

Q Now, that would be a distance of what, 75 feet, 100

feet?

A I don't know.

Q Is that a rough estimate?

A I guess so, I don't know.

Q Okay. The door to the segregation cell below the guard room are right across the guard room?

A Yes, they are there.

Q And then there is a distance outside of the security area from the front entrance where you have to go and that would probably be equal to the distance from the guard room to the security area, is that correct, the security gate?

A I'm not sure what you mean by that?

Q Okay. All I am trying to establish is the distance that you travelled that night when you got out of the van at the Institute and went down to the door where the segregation cells are?

A Yes.

Q Now, are you telling me that you were dragged all of that distance by your hair?

A Yes, I was.

Q In other words you were physically pulled on the floor?

A Yes.

Q And you were dragged just by your hair and nothing else?

A Yes, I was.

Q How long have you been there?

A Since around June 27th or the 26th.

Q How long is your sentence?

A I'm doing penitentiary time. I am just on mandatory parole, a violation of mandatory and I was charged with a charge that I am doing ten days on, an obstruction charge.

Q What is your sentence for?

A For escape, abduction, I was sent up for up to nine and a half years regarding an escape from Spy Hill in 1969.

Q An abduction charge as well?

A Yes.

Q Now, on July 17th, 1973 you were an inmate at the Calgary Correctional Institute?

A Yes, I was.

Q And I gather towards the evening you were down in the segregation cells?

A Yes.

Q Were you there on a charge of some kind?

A Well, it wasn't any charge. I was down there because the Institution said I was a security risk and they had believed that I was going to escape and so the Institution put me down there.

Q Now, I don't want you to tell us what you heard what other people said or what you heard things that happened but would you tell us what you observed

on the night of July 17th when an inmate by the name of Poole was brought into the segregation area?

A Yes. Gerry Poole was brought down into segregation by about four or five guards and while Gerry was being brought down, he was pretty drunk at the time, and I was in cell five and I came to the bars and they were taking Gerry to cell four and while they were taking him Mr. Cater took Gerry inside the cell hit him with his fist.

Q Now, where was Mr. Cater standing when he struck Mr. Poole?

A On the left of the cell, that would be the cell is facing to the south, I believe, he would be right in front of the cell, just out from the cell about five feet.

Q Was he facing Poole when he punched him or was he behind him?

A On the side of him.

Q What side of Poole's head did he hit him on?

A I'm not positively sure of that.

Q Well, what side of Poole was --

A That would be the right side, the right side, yes.

Q He would have been on Poole's right?

A Yes.

Q And he struck Poole on the right side of the head?

A Yes.

Q Are you sure he didn't hit him on the shoulder?

A Yes, I'm sure of that.

Q Did you see any of the other guards strike Poole?

A No, I didn't.

Q When he struck him what did Poole do?

A Well, he staggered around until they put him in the cell.

Q Had they had the gate opened when he punched him?

A No. Well, they had the gate opened to get into the segregation area but they didn't have the gate to the cell open, no.

Q Did this happen right in front of the cell?

A I was in cell five and this happened between cell three and cell four, in that area.

Q Did you see any of the other guards strike Poole?

A No, I never.

Q Did you see anybody strike or kick him again that evening?

A No.

Q I take it after you saw Mr. Cater strike him on the side of the head he was put into the cell?

A Yes, he was.

Q Did you see them bring any other inmates down into that area that night?

A No, just Gerry.

MR. PEACOCK: Those are all the questions that I have, answer other counsel, please.

MR. WILKINS:

No questions.

CROSS-EXAMINATION BY MR. MACDONALD:

Q Did you see Mr. Poole the next morning?

A Yes, I did.

Q Did you notice the condition of his eyes?

A Yes, Gerry had black eyes and when we went up to exercise he told me about being outside and being bitten by a dog and he had marks on the side of him where he was bit, bruised and his rib cage was bruised.

Q Did you see the marks?

A Yes, I did.

Q Did you see anybody that had been bitten by an animal?

A Yeah, I have been myself.

Q Were the marks that Poole had consistent with dog bites?

A I would say that they were marks that looked like a dog bite, yes.

MR. MACDONALD:

Thank you.

MR. MEURIN:

No questions.

EXAMINATION BY THE COMMISSIONER:

Q Mr. Schimsens, was there any reason that you could see why Cater struck Poole?

A Well, Gerry was drunk and he was staggering around quite a bit and they had five guards there and they already had him under control. You know, I never seen the reason, he was just staggering around from

side to side.

Q Was he handcuffed at the time?

A No, he wasn't.

Q Anything arising out of that, gentlemen?

MR. MACDONALD: No.

MR. PEACOCK: Thank you Mr. Schimsens.

(Witness retires)

MR. PEACOCK: That is the evidence for
today and may we adjourn until ten o'clock Wednes-
day morning.

(Hearing adjourned)
